

**SUMMARY OF MAJOR CHANGES TO
DOD 7000.14-R, VOLUME 7A, CHAPTER 26
“BASIC ALLOWANCE FOR HOUSING (BAH)”**

Substantive revisions are denoted by a ★ preceding the section, paragraph, table or figure that includes the revision

PARA	EXPLANATION OF CHANGE/REVISION	EFFECTIVE DATE
Table 26-12	Interim change 04-01 incorporates the new Basic Allowance for Housing (BAH) II rates and the BAH Differential.	January 1, 2001

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CHAPTER 26

BASIC ALLOWANCE FOR HOUSING (BAH)2601 GENERAL PROVISIONS

260101. Basic Allowance for Housing Entitlements. Effective January 1, 1998, in general, BAH provides to members a monthly allowance for housing. This allowance is authorized for members with and without dependents. BAH is intended to pay only a portion of housing costs. BAH will consist of BAH-I, BAH-II, BAH Difference (BAH-DIFF), Partial BAH, Overseas Housing Allowance (OHA), and Family Separation Housing (FSH). Basic Allowance for Housing - I consists of the former allowances known as basic allowance for quarters (BAQ) and variable housing allowance (VHA). Basic Allowance for Housing - II replaced BAQ, and BAH difference is the difference between the with and without dependents' rates of BAH-II. Family Separation Housing is the former allowance known as family separation allowance (FSA) Type I. See Web site for housing rates (www.dtic.mil/perdiem).

A. Basic Allowance for Housing is payable to members on active duty and will vary according to the grade in which serving or appointed for basic pay purposes, dependency status, and the permanent duty station (PDS) assigned (except as otherwise provided in section 2605).

B. A member's old PDS is the PDS for BAH purposes from the day the member departs the old PDS through the day before the member reports to the new PDS in compliance with permanent change of station (PCS) orders (if the member had been residing in government quarters at the old PDS, the member is entitled to BAH the date of termination of government quarters). See Tables 26-9 and 26-11 for further guidance.

C. Basic Allowance for Housing is not payable to members who are assigned to quarters of the United States appropriate to the grade, rank, or rating of the member and adequate for the member and dependents, if with dependents. A member is not entitled to a basic allowance for housing except as provided in paragraphs 260106, 260201, 260202, 260301, 260302, or 260303.

D. All determinations of dependency and relationships are made by the Defense Finance and Accounting Service (DFAS) (secondary dependents and doubtful primary dependents), Secretary of the Department concerned (primary dependents) or by persons designated by the Secretary. The designee may redelegate this authority.

E. Basic Allowance for Housing rates are determined as set forth in paragraph 260107. Basic Allowance for Housing - II rates are established by the Secretary of Defense. Basic Allowance for Housing - II is the housing allowance entitlement for members not specifically entitled to BAH-I in some cases.

F. Overseas Housing Allowance rates are determined by the Per Diem Travel and Transportation Allowance Committee. See Web site for published OHA Rates (www.dtic.mil/perdiem).

260102. Determining Dependency or Relationship for BAH Entitlements - Army and Air Force Personnel. Determinations are made by offices shown in Table 26-1.

260103. Determining Dependency or Relationship for BAH Entitlements - Navy and Marine Corps Personnel. Determinations are made by offices shown in Table 26-2.

260104. Fraudulent Claims. Any member who submits a claim for BAH which contains false statements is subject to court-martial or criminal prosecution. In addition, fraudulent acceptance of benefits may cause a civilian recipient to be subject to criminal prosecution. The law provides for severe penalties of imprisonment and a fine. For military personnel, it can include dishonorable separation, total forfeitures, and confinement.

260105. Government Quarters - Responsibility for Assignment or Termination of Assignment

A. Assignment of Government Quarters. The base or installation commander assigns and terminates quarters. The commander also determines when quarters are “adequate” and “suitable” for assignment. Government quarters or housing facilities under control of the Uniformed Services are considered assigned, suitable, and adequate whenever occupied by a member at the permanent station without payment of rental charges. This includes quarters furnished a member without charge:

1. By an organization or institution on behalf of the United States.
2. By a foreign government for the member’s official use.
3. When jointly assigned to one or more members without dependents.

NOTE: A member is still considered assigned to government quarters when the member voluntarily vacates assigned quarters without approval of the installation commander. (Grade E-7 and above, without dependents, may elect not to occupy assigned quarters unless denied permission by the Secretary concerned; see paragraph 260201.)

B. BAH for Date of Assignment of Quarters. Except when a member is entitled to BAH in accordance with Tables 26-3, 26-4, and 26-5, BAH continues to accrue through the day before the date a member is assigned government quarters or begins to occupy government quarters at the permanent station.

C. BAH for Date of Termination of Quarters. BAH accrues from the date the assignment to government quarters is terminated or the date that quarters are vacated as indicated in Tables 26-3 through 26-6.

260106. Occupancy of Rental Quarters at a Service Academy. A member is entitled to BAH while renting quarters in a hotel on the grounds of a Service Academy.

260107. Establishment of BAH-I Rates

A. Basic Allowance for Housing - I Rates

1. The Secretary of Defense determines the costs of adequate housing in a Military Housing Area (MHA) for all members of the uniformed services entitled to BAH-I by location. The determination for housing allowances is based upon the costs of adequate housing for civilians with comparable income levels in the same area.

2. An adjustment in the rates of BAH-I as a result of the Secretary's redetermination of housing costs in a MHA takes effect on January 1 of every year.

3. The amount paid for BAH-I the preceding year is adjusted to reflect changes during the year. This process accounts for the number of members, grade distribution, geographic distribution, base closures, Unit/Command movements and dependency status of members of the uniformed services entitled to the allowance from the number of such members during the preceding year.

B. BAH-I Rate Protection. The monthly BAH-I amount actually paid a member (i.e., BAH-I Rate Protection) shall not be reduced as a result of changes in housing costs in the MHA, changes in the national monthly cost of housing, or promotion of the member. A member's BAH-I rate protection at the current amount will cease on the date the member's eligibility to BAH-I for a given MHA terminates, if the member is demoted, or loses entitlement to BAH-I at the with dependents rate. The current BAH-I rate at the current duty location becomes the member's new protected BAH-I rate.

260108. Allowance for Quarters to Surviving Dependents. For payment of basic allowance for housing to surviving dependents of members who die while on active duty, see section 3603 of this regulation.

260109. Advance of Housing Allowances

A. Entitlement. Effective April 20, 1999, when allowed by Service regulations, a member's commanding officer, the commanding officer's designated representative, or another designated official may authorize an advance payment of BAH to pay advance rent, security deposits, and/or initial expenses incident to occupying other than government housing. The advance may be made at any time during a member's tour at the station concerned. It also may be authorized when a member has located housing incident to

PCS orders. Normally, the advance shall not be disbursed more than 3 working days before the date payment under the lease or rental agreement must be made. Officers listed herein may authorize disbursement, in extenuating circumstances, more than 3 working days before the date payment must be made. The member must request the advance payment within 30 days after incurring the expense(s). Housing expenses will be documented to include copies of the lease, utility company statement and any other pertinent documentation available. Expenses identified by a member that will be used in the purchase of any real estate or living accommodations shall not be considered as a basis for authorizing or determining the amount of the advance.

B. Amount. The amount to be advanced will be determined based on the member's current prescribed BAH rate. The member's ability to repay the advance, considering other advances of pay which may have been made and any recurring pay deductions, will be considered in determining the amount of the advance. In no case shall the advance payment of BAH exceed a total of 3 months BAH expected to be accrued by the member.

C. Liquidation. Liquidation of the advance should be at a rate of not less than equal monthly installments of one-twelfth of the amount advanced, per month for the next 12 months. Collection action should begin on the first day of the month after payment of the advance has been made. When justified by the member and authorized by the member's commanding officer, the commanding officer's designated representative, or another service-designated official, the beginning of collection action may be postponed for up to 3 months after the advance is made. Repayment may be spread over a period of more than 1 year, but not to exceed 24 months or the member's tour at the station concerned. Action to recoup in a lump sum any advance made under this paragraph that has been returned to the member by the landlord must be taken immediately upon receipt of information that the member has vacated the housing for which the advance was made. Any balance of an advance not returned by the landlord may be liquidated in monthly installments, if desired by the member, for a period over the balance of the months remaining on the existing loan repayment schedule.

D. Administrative Instructions. Each Service concerned shall prepare regulations for the administration of the payment of an advance BAH to include the preparation and disposition of vouchers and supporting papers.

E. Special Circumstances. An advance payment of BAH is authorized in circumstances and conditions other than those under subparagraph A, when authorized by the Secretary concerned or designee. Liquidation procedures for advances under this subparagraph shall be prescribed by Service regulations.

F. Advances of Overseas Housing Allowance (OHA). Advances of OHA may be authorized under the terms and conditions in the Joint Federal Travel Regulation, Chapter 9 (reference (d)).

2602 MEMBERS WITHOUT DEPENDENTS

260201. Entitlements

A. General. Members without dependents who are entitled to basic pay are entitled to BAH-I as set forth in Table 26-3. Members without dependents in pay grades E-7 and above may elect at any time not to occupy government quarters at the permanent station and become entitled to BAH-I unless the Secretary concerned or designee has determined that the member's exercise of this option would adversely affect a training mission, military discipline, or readiness. See Table 26-3, rules 6 through 8, for BAH-I entitlements while on field or sea duty.

B. Members in Pay Grade E-6 not on Sea Duty. Effective on or after July 1, 1996, a member without dependents who is in pay grade E-6 and who is assigned to quarters of the United States that do not meet the minimum adequacy standards established by the Department of Defense for members in such pay grade, or to a housing facility under the jurisdiction of a Uniformed Service that does not meet such standards, may elect not to occupy such quarters or facility and instead to receive the BAH-I prescribed for the member's pay grade. The Secretary concerned, or the designee, may deny BAH-I on determining that the member's exercise of this option would adversely affect a training mission, military discipline, or readiness.

C. Members on Sea Duty. See Table 26-3, rule 8, for BAH-I entitlements while on sea duty.

1. Members without dependents in grade E-5 assigned to sea duty. On or after July 1, 1997, under Service regulations, the Secretary concerned may authorize the payment of BAH-I to a member without dependents who is serving in pay grade E-5 and is assigned to sea duty. In prescribing regulations under this subparagraph, the Secretary concerned shall consider the availability of quarters for members serving in pay grade E-5.

2. Member married to member in grades below E-6 and both are assigned to sea duty. On or after July 1, 1997, two members of the Uniformed Services in a pay grade below E-6 who are married to each other, have no other dependents, and are simultaneously assigned to sea duty are jointly entitled to one BAH-I allowance during the period of such simultaneous sea duty. The amount of the allowance shall be based on the without dependents rate for pay grade of the senior member of the couple. However, this subparagraph shall not apply to a couple if one or both of the members are authorized BAH-I identified in subparagraph 260201.C.1 above.

260202. Uninhabitable Quarters Aboard Ship

A. A Navy officer may be reimbursed for expenses (not to exceed the total of the BAH-II of a member of the same grade without dependents) incurred in obtaining quarters when the Secretary of the Navy or designee certifies that:

1. Such an officer is prevented from occupying quarters assigned aboard a ship on which the officer is serving on sea duty because such quarters are uninhabitable due to repairs, overhaul, conversion, or other conditions.

2. Government quarters are not available.

3. The hire of quarters is not practicable. An officer may not be reimbursed for expenses under the conditions of this paragraph when such officer is entitled to BAH or when the officer can reside with dependents who are living in the area of the ship's location. An officer's dependents are living in the area of the ship's location when the residence is within a distance of 50 miles (or 1-1/2 hours travel time), one-way, of such location or the officer actually commutes daily, regardless of distance. The term "commutes daily" excludes duty periods when the officer is required to remain aboard or within close proximity to the ship. See paragraph 270203 for application of the distance and travel time restriction.

B. Request for reimbursement for expenses in place of quarters must be approved by OPNAV (N130).

C. The certification may be signed by the supervisor of shipbuilding of any shipyard or drydock where United States naval ships are undergoing repair or conversion.

260203. Reserve Component Members

A. Duration of Orders. Reserve Component members called or ordered to active duty for 139 days or less are entitled to BAH-II, except as provided in subparagraph B below. However, if the member receives an order modification or extension of assignment, the prospective period of active duty must be 140 days or more and BAH-I would start on the date of modification. Members called or ordered to active duty for 140 days or more are entitled to BAH-I.

B. Contingency Operations. A reserve component member called or ordered to active duty in support of a contingency operation (other than a member who is authorized transportation of household goods as a part of the call or order) is entitled to BAH-I, if the member is unable to continue to occupy the primary residence because of the call or order to active duty. This applies when the residence is maintained as the primary residence of the member when called or ordered to active duty and is owned by the member or for which the member is responsible for rental payments.

C. Member Married to Member. Unless subparagraph B above applies, a reserve member married to another reserve member on active duty, without dependents, not assigned to government quarters, is entitled to single rate BAH-II, when called to active duty for 139 days or less. For such a reserve member on active duty for 140 days or more, each member is entitled to single rate BAH-I. If such members have dependents, see section 2603 for entitlement to BAH.

D. See Table 26-11 for the location rate of BAH payable for reserve members entitled to BAH. In addition, see paragraph 570502 for Reserve members.

260204. Missing Status. Members without dependents carried in a missing status are entitled to BAH-I at the without dependent rate. (See paragraph 340302.)

260205. Partial BAH Entitlement

A. Partial Rates. A member without dependents who is assigned to single-type quarters or is on field or sea duty, and is not entitled to receive a BAH, is entitled to partial BAH at the rates provided in Table 26-12.

B. Conditions

1. A member without dependents assigned to single-type adequate government quarters at the permanent station and entitled to partial BAH who is subsequently sick in a hospital (no PCS involved), continues to be entitled to partial BAH while hospitalized.

2. Except as provided in subparagraphs 260201.B and C, a member without dependents in grade E-6 or below who is offered an assignment of adequate government quarters, or is assigned government quarters but elects not to occupy such quarters and resides in private quarters at own expense, is assigned to government quarters and not entitled to BAH. Therefore, such member is entitled to partial BAH.

3. Partial BAH is not authorized during proceed time, leave en route, or travel time on PCS unless member is assigned to single-type government quarters and not entitled to BAH.

4. Member married to another member who has no dependents other than the spouse is entitled to partial BAH when assigned to single-type government quarters and is not entitled to BAH. However, such members assigned to family-type government quarters are not entitled to partial BAH.

5. A member occupying single-type government quarters whose dependents reside in family-type government quarters, is not entitled to BAH and therefore, is entitled to partial BAH, provided the family quarters are not assigned under the member's eligibility.

6. A single member without dependents is not entitled to partial BAH when assigned to family-type government quarters.

7. A Navy officer without dependents on sea duty, being reimbursed under paragraph 260202 for the expense incurred for quarters, when the quarters aboard ship are uninhabitable, is entitled to partial BAH.

8. Member without dependents confined in a guardhouse, brig, or correctional barracks who was assigned to single-type, government quarters before confinement and remains assigned to such quarters during confinement is entitled to partial BAH unless forfeiture of allowances was directed.

9. Member without dependents who is restrained in a status of arrest in assigned single-type government quarters, and therefore not entitled to BAH, is entitled to partial BAH unless forfeiture of allowances was directed.

10. Member without dependents permanently assigned to a hospital for treatment and assigned quarters in the hospital is entitled to partial BAH.

11. Member married to another member, neither having other dependents, who is assigned to sea duty and occupies government family quarters assigned to the spouse when vessel is in port, is a member without dependents assigned to quarters on the vessel and is not entitled to BAH but is entitled to partial BAH.

12. Member without dependents who is ordered PCS to confinement in a guard-house, brig, correctional barracks, or to additional training in a retraining or rehabilitation facility, is assigned to certain quarters therein and not entitled to BAH. Such member is entitled to partial BAH unless forfeiture of allowances was directed.

13. Member without dependents assigned to single-type government quarters between permanent duty stations and not entitled to BAH is entitled to partial BAH. This includes periods of temporary occupancy of government quarters in excess of 30 days without entitlement to BAH.

14. Effective April 20, 1999, a member without dependents is not entitled to partial BAH when assigned to government single-type quarters (including government-leased quarters) that exceed the minimum standards of single quarters for the member's grade.

2603 MEMBERS WITH DEPENDENTS

260301. Entitlements

A. When Entitled To BAH. A member with dependents who is entitled to basic pay is entitled to BAH at the rates prescribed for members with dependents when:

1. Adequate government quarters are not furnished for the member and dependents without payment of rental charge.

2. Adequate government quarters are not furnished for the member's dependents, or all of the member's dependents are prevented by competent authority from occupying such quarters, even though quarters are assigned for the member's occupancy. Does not apply to the provisions of paragraph 260409.

3. Dependents are not en route or do not accompany the member to the permanent duty station, or the vicinity thereof, so as to preclude assignment of family quarters. Under such circumstances, the mere availability of quarters which could have been assigned does not defeat the right of a member to the BAH for dependents. See Table 26-9 for the location to be used in determining the member's BAH entitlement.

B. Naval Aviation Cadets. A naval aviation cadet with dependents is entitled to BAH under the conditions and at the rates prescribed for an enlisted member in grade E-4 (over 4 years' service) with dependents.

C. Limitation on Quarters Occupied by Member. Effective April 20, 1999, when adequate quarters are not furnished for a member's dependents, the member may not occupy, either at the permanent or TDY station, government quarters which exceed the minimum standards for the member's grade without dependents without affecting the right to BAH unless:

1. These quarters are the only quarters available, and
2. The quarters are not suitable for joint occupancy, or
3. If suitable for joint occupancy, the quarters are jointly occupied with other members permanently assigned to the PDS.

D. Quarters Occupied During Special Duty Assignment. Effective April 20, 1999, a member, not accompanied by dependents, serving outside the United States, its territories, or possessions, in a duty assignment having official or diplomatic responsibilities involving officials of foreign governments, may be assigned to quarters that exceed the minimum standards for the member's grade without dependents, without affecting the member's right to BAH. The local CINC or major unit Commander is the appropriate authority to decide whether an assignment entails "official or diplomatic" responsibilities involving officials of foreign governments. However, such quarters shall not be available on a continuing basis for single occupancy, if they are adequate for assignment as family housing to members of similar grade.

E. Additional Room Assigned to Chaplain. Assignment of an additional room to a chaplain for spiritual purposes does not affect the member's right to BAH. The room must be used for official duties and not as living quarters.

260302. Government Quarters Assigned or Occupied

A. Adequacy of Government Quarters. The term “government quarters or housing facilities” is in the Definitions. The base, post, or installation commander determines when government quarters are adequate and appropriate for assignment.

B. Quarters Not Designated as Family-Type Quarters. A member who neither is assigned to nor occupies government quarters is entitled to BAH or BAH-DIFF for dependents even though the dependents occupy government quarters not designated as family-type quarters. Examples of such quarters are:

1. One room occupied by a member’s spouse incident to employment as a domestic servant in quarters of a commissioned officer.

2. Dormitory quarters occupied by a member’s child at a school for dependents of military personnel.

3. A hospital room occupied by a dependent under the Dependents’ Medical Care Act (reference (aq)). However, a member is not entitled to BAH or BAH-DIFF when a sole dependent is hospitalized in a government or civilian hospital under the Dependents’ Medical Care Act (reference (aq)) and the member is assigned to and occupies government quarters (even though private quarters are maintained and occasionally occupied).

4. Off base housing, non-government quarters, occupied by member’s civilian spouse incident to employment overseas with Department of Defense Dependent Schools as a schoolteacher. NOTE: Member is separated from spouse by competent orders.

C. Quarters Furnished on Behalf of the United States. A member is not entitled to BAH or BAH-DIFF for dependents if the member and dependents are furnished adequate family quarters on behalf of the United States without rental charge. Examples of such quarters are:

1. Family quarters furnished a member in an official capacity by a foreign government.

2. Family-type quarters furnished by a state, county, municipal, or privately owned hospital to an officer serving on active duty as an intern or resident physician.

3. Family-type quarters furnished by a college, university, or research facility as part of a fellowship, scholarship or grant.

D. Quarters Occupied by Dependents. A member furnished single-type quarters is not entitled to BAH on behalf of:

1. A spouse who is a sole dependent and who is furnished quarters in kind as a civilian employee at a government hospital.

2. A spouse who is a sole dependent and who is furnished government quarters while serving with the American Red Cross overseas.

3. A sole dependent who is a student nurse in training at a government hospital. However, BAH is payable on behalf of a dependent who is a student nurse in training at a civilian hospital.

4. A civilian spouse who is a sole dependent and who is furnished government quarters while assigned overseas with Department of Defense Dependent Schools as a schoolteacher.

5. Dependents evacuated from a danger area, who occupy government housing facilities at a safehaven. (See subparagraph 260302.G for exception when member must continue to pay for private housing).

6. Dependents alone or when accompanied by the member, who occupy government quarters assigned to another member for more than 90 days at any one duty station. Occupancy for more than 90 days is of a permanent nature and BAH entitlement does not accrue for any portion of the period of such occupancy. Visits of 90 or less days are social visits and do not cause loss of BAH. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.

7. Any dependent(s), if one or more of the member's dependents occupy the quarters with the member on a permanent basis or on a social visit in excess of 90 consecutive days, unless other dependents are precluded by competent orders from residing with the member.

E. Quarters Occupied by Dependents During Member's Sea Duty or Field Duty. A member whose dependents temporarily occupy government quarters while the member is on sea duty or field duty is entitled to BAH for a period not to exceed 90 days. (See Table 26-5, rule 2.)

F. Rental Quarters (Other Than Inadequate Quarters). A member and dependents who occupy the following facilities on a rental basis are entitled to BAH. (See Definitions for "rental charge.")

1. Any housing facilities, including trailers, under the jurisdiction of the government other than government quarters constructed or designated for occupancy without charge. The member may sublease such quarters to a temporary subleasee with or without charge and neither the sublessor nor subleasee will lose their right to BAH.

2. A hotel on the grounds of a Service Academy.

3. Quarters furnished a member in connection with service in a capacity other than that of a member.

G. Quarters at Safehaven Temporarily Occupied by Dependents. A member is entitled to BAH for dependents when:

1. The member's dependents occupy government-provided housing at a safehaven area after emergency evacuation from private housing at the permanent station.

2. Due to conditions beyond the member's control, member is required to continue payment of rental for the private housing in order to house furnishings and belongings and to have quarters available upon return of the dependents.

3. This entitlement will continue until such time as dependents are authorized to return to member's permanent duty station or arrive at a designated place as contemplated by JFTR, paragraph U5240-A (reference (d)).

H. Lease on Private Rental Quarters. Effective December 8, 1997, when a member makes a local move from private, leased quarters to government housing, BAH is not payable for the remainder of the lease on the private quarters even though the member is required to honor the lease.

260303. Quarters Designated as Inadequate

A. Entitlement to BAH-II. A member with dependents may be assigned designated inadequate quarters on a rental basis without loss of BAH-II. This does not apply to bachelor officer quarters, visiting officer quarters, guest houses, and similar type facilities, or to assigned quarters undergoing ordinary repairs. Orders stating that quarters were inadequate while repairs were being made do not operate to authorize BAH-II during the period involved.

B. Effect of Subleasing Inadequate Quarters. The member may share the quarters with others or permit occupancy by others while on leave. The member may also sublet the quarters on a rental basis without loss of BAH-II, the amount of rent being immaterial.

C. Rental Charge for Inadequate (Substandard) Quarters. Collect rent from the member at the fair rental value of the quarters, as established by base housing personnel. The rental charge for the quarters shall be the fair rental value of such quarters, not to exceed 75 percent of the member's with dependent BAH-II rate. Rental charge is independent of the amount and type of BAH-II being paid to the member. See also subparagraph 260303.G for assignment of inadequate quarters to members married to one another. A member's receipt of BAH-DIFF does not affect the rental charge.

D. Effective Date of BAH-II and Rental Charge. BAH-II and rental charge begin on the date of the member's assignment to such quarters or on the date the determination of inadequacy is effective, whichever is later.

E. Computation of BAH-II and Rental Charge. Compute BAH-II and rental charge on a 30-day month basis and prorate at one thirtieth of the monthly rate for each day inadequate quarters are assigned. Do not pay BAH-II or charge rent for the 31st day of a month. Pay 3 days' BAH-II and charge 3 days' rent when inadequate quarters are assigned on the 28th of February. Do not charge rent for the day the assignment is terminated; however, BAH-II accrues for the day of termination.

F. Inadequate Quarters Redesignated Adequate. Rental charges and BAH-II cease on the date rehabilitated inadequate quarters are redesignated as adequate government quarters. If a member's assignment was continued during the period of rehabilitation, the redesignation of adequacy is effective as of the first day of the month following the month in which the rehabilitation was completed.

G. Husband and Wife Entitled to BAH-II. When a husband and wife are both members who jointly occupy inadequate family quarters on a rental basis, use Table 26-4 to determine their respective BAH-II entitlements. The rental charge for the quarters shall be the fair rental value of the assigned inadequate family-type quarters, but will never exceed 75 percent of the with dependent BAH-II rate which would be payable to a member of the same grade and rank as the member under whose eligibility the quarters are assigned. The BAH-II paid to the respective members does not affect the amount of rent charged, even where a member is receiving BAH-II at the with dependent rate. Collect in accordance with Service regulations. For inter-Service marriages, the rental charge will be collected in accordance with the regulations of the Service furnishing the quarters.

260304. Dependent. The term "dependent" for BAH purposes is the same as defined in the Definitions.

A. Member with Dependents. A member is not entitled to BAH on behalf of:

1. A minor child who is entitled to basic pay as a member on active duty in a Uniformed Service. This includes a minor child attending one of the Military Service academies where quarters are furnished by the United States.

2. A spouse who is on active duty in a Uniformed Service of the United States and entitled to basic pay and allowances. See Table 26-4 for guide to BAH entitlement when both spouses are in the Military Service and entitled to basic pay and allowances.

3. A dependent for whom the member has been absolved of the requirement to provide support; for example, desertion without cause, marital infidelity.

4. A dependent whose whereabouts is unknown and whose absence or whereabouts remains unexplained.

5. A former spouse to whom the member is paying alimony.

6. A dependent who occupies government quarters as a permanent residence without payment of a rental charge. (See paragraph 260411 for exception.)

B. Dependent Spouse in Foreign Service. A member is entitled to BAH on behalf of a spouse in military service of a government other than the United States. This applies even though furnished quarters or paid a monetary allowance in lieu of quarters by that government.

C. Dependency Approval. Dependency must be approved before entitlement to BAH is authorized. After initial approval, the Services must maintain adequate levels of internal audit to assure the legality, propriety, and correctness of all disbursements for BAH. See individual Service regulations for procedures.

D. Certification of Dependents Status. Effective April 20, 1999, each member who is entitled to BAH on behalf of dependents must provide recertification to the Secretary concerned indicating the status of each dependent of the member to support entitlement to BAH on behalf of dependents upon arrival at a new PDS. If a member fails to provide the certification in a timely manner, stop BAH on behalf of dependents at the end of the month in which the certification is due, but continue to pay BAH at the appropriate partial or without-dependent rate unless the member is not entitled to that allowance for some other reason. Resume paying BAH at the with-dependent rate effective the date the member provides proper certification. Do not pay the higher rate retroactively in the absence of certification from the member's commander that the failure to recertify timely was for reasons beyond control of the member.

E. Reserve Component Members. Effective April 20, 1999, after initial certification, Reserve component members must recertify dependency status at least every third year from the previous certification or upon change in dependency status.

F. Dependency Redeterminations. Annual redetermination of dependency is required for members who claim BAH on behalf of:

1. Parents, parents in law, stepparents, parents by adoption, in loco parentis.
2. Students 21 and 22 years of age.
3. Incapacitated children over 21 years of age.
4. Ward of a court.

260305. Entitlement During Leave, Travel Status, Separation, and Other Situations.
See Table 26-5.

260306. Dates To Start and Stop BAH. See Tables 26-6, 26-7, and 26-8.

2604 RULES FOR DETERMINING RELATIONSHIP AND DEPENDENCY

260401. Application of Rules. In determining relationship or dependency for BAH entitlement, the appropriate officials must apply the rules in Table 26-1 or 26-2.

260402. Lawful Spouse and Legitimate, Unmarried, Minor Children. A member's lawful spouse and legitimate, unmarried, minor children are at all times considered dependents for BAH purposes, except under the situations shown below and in subparagraphs 260304.A or 260406. When both members are entitled to BAH or BAH-DIFF on behalf of a child(ren) from a previous relationship, when they marry and are stationed in the same area, all of the children are considered as one class of dependents. Therefore, only one BAH with Dependent rate (including BAH-DIFF) is payable. A determination of relationship is required, but usually a determination of dependency is not. In all instances of a member having a spouse on active duty, full details must be given showing full name, social security number, duty station, and branch of Service of that spouse.

A. When two members, with no other dependents, are married to each other, they may elect which member will receive BAH on behalf of their adopted children or children born of their marriage. Both member must agree to the election. If the members cannot agree, the senior member is entitled to BAH for their children. The members may subsequently elect to transfer BAH entitlement on behalf of adopted children and children born of the marriage from one member to the other. Such elections may not be applied retroactively.

B. When one of two members married to each other is already receiving BAH at the with-dependent rate on behalf of an adopted child(ren), child(ren) from a previous marriage, or an illegitimate child(ren), then any child(ren) born of their marriage, or adopted by them, is within the same class of dependents for which the member is receiving BAH and the other member may not claim the children for BAH purposes. However, if the member elects to stop receiving BAH at the with-dependent rate, then the other member may claim the child(ren) for BAH purposes.

1. When both members are entitled to BAH-I, BAH-II or BAH-DIFF on behalf of child(ren) from prior relationships, and marry, are assigned to the same or adjacent bases, and are not assigned government quarters, only one member may receive BAH at the with dependent rate on behalf of the common class of dependents.

2. Effective April 20, 1999, when one of two members married to each other is receiving BAH at the with-dependent rate, the class of dependents includes the parents of either member and only one BAH at the with-dependent rate is payable.

3. Effective April 20, 1999, when married members are assigned to different locations, pursuant to competent military orders, their entitlement to increased allowances or to government-furnished quarters should be determined separately, without regard to the general rule that all children and parents of the members are dependents of the same class

for the purpose of determining BAH entitlements. However, each member is required to have physical custody of the child(ren) in order to be paid BAH at the with dependents rate. If the child(ren) is with a third party, only BAH-DIFF can be paid. (See Table 26-4.)

260403. Validity of Member's Marriage. Any case where the validity of a member's marriage is questioned is considered a case of doubtful relationship.

A. Remarriage Within Prohibited Period Following Divorce. Under the laws of some states, a marriage is not dissolved until a specified period has elapsed after granting of a divorce decree. Remarriage is prohibited within the specified period. Moreover, in all states that grant an interlocutory decree before they grant a final divorce decree, remarriage may not be contracted before the final decree is granted.

B. Marriage by Proxy. Proxy marriages are considered valid if performed in a jurisdiction which recognizes common law marriages and has no statute or judicial determination prohibiting proxy marriages.

C. Marriage by Telephone. A marriage by telephone will be recognized as entitling a member to BAH on behalf of a "lawful spouse" only if a statute or court decision authorizes or recognizes telephone marriages in the jurisdiction where the marriage was performed.

D. Common Law Marriages. Under laws of certain states, a common law marriage may be entered into by persons who do not obtain a license to marry or go through certain other formalities. Common law marriages entered into in those states are considered valid if they are contracted in accordance with state law.

E. Foreign Nation Divorce. A foreign nation divorce may or may not be recognized as valid in the United States depending on several factors. These factors include place of residence of the parties involved, whether they appeared in person to obtain the divorce, and applicable state laws. Any claim involving remarriage of a member following a foreign nation divorce and any claim by or on behalf of the spouse from whom the member has obtained a foreign nation divorce are cases of doubtful relationship. A claim based on a member's marriage to a person who has obtained a foreign nation divorce is also a doubtful case.

F. Purported Marriage

1. Void Marriage. If a member's marriage is void (because of a pre-existing marriage of the spouse, for example) the member has no lawful spouse and is not entitled to BAH as a result of the purported marriage. When invalidity of the marriage is discovered, no further BAH payments may be made for any period (see Table 26-7, rule 4). The member may retain payments already received if they are validated under section 5005. When validity of a marriage is questionable, submit the case to the office shown in subparagraph 3 for a determination on validity of the marriage and, if necessary, validation of payments already made.

2. Annulled Marriage. If a member's marriage is annulled by court decree, no further BAH payments may be made for any period (see Table 26-7, rule 3). The member may retain payments received before the effective date of the decree. Since validation under section 5005 is required for retention of such payments in some annulment cases (based on legal factors), submit all annulment cases to the office shown in subparagraph 3 for review and, if necessary, validation of payments made.

3. Determination and Validations. Submit requests for determination on validity of a marriage (doubtful cases) or for validation of payments to the appropriate address shown below:

- a. Army
DFAS-IN/FJECG
8899 East 56th Street
Indianapolis IN 46249-0855
- b. Navy
DFAS-CL/FMA
1240 East 9th Street
Cleveland OH 44199-2055
- c. Air Force
DFAS-DE/FJPD
6760 East Irvington Place
Denver CO 80279-3000
- d. Marine Corps
Commandant of the Marine Corps
(Code MHP-20)
Washington DC 20380

260404. Child of Legally Invalid Marriage. An unmarried minor child of an invalid marriage or a marriage annulled as void or voidable is considered a dependent for BAH purposes.

260405. Reserved

260406. Support of Dependent General

A. Proof of Support. The statutory purpose of BAH on behalf of a dependent is to at least partially reimburse members for the expense of providing private quarters for their dependents when government quarters are not furnished, and not to pay BAH on behalf of a dependent as a bonus merely for the technical status of being married or a parent. Proof of support of a lawful spouse or unmarried, minor, legitimate child of a member is generally not required. However, when evidence (e.g., special investigation reports; record reviews; fraud,

waste and abuse complaints; sworn testimony of individuals; statement by member) or complaints from dependents of nonsupport or inadequate support of dependents are received, proof of adequate support as stated in subparagraph E is required.

B. Nonsupport. A member who fails to support a dependent on whose behalf BAH is received is not entitled to BAH on behalf of that dependent. Recoup for periods of nonsupport or inadequate support. Unless a period of nonsupport or inadequate support was caused as a result of mission requirements of the Service concerned (e.g., remote assignment, deployed, limited access to administrative support and/or financial networks, etc.), or the actions of outside agencies (such as financial institutions, postal service, etc.) over which the member has no control, as determined by Service regulations, the subsequent payment of arrears of support does not entitle a member to BAH on behalf of the dependent for the period of nonsupport or inadequate support. If a member is not entitled to BAH for dependents under any of the subsequent subparagraphs, consider entitlement to without-dependent or partial-rate BAH under section 2602. NOTE: A member does not avoid the legal responsibility to comply with a court order for support by forfeiting BAH.

C. Legal Separation Agreement or Court Decree, Judgment or Order Silent on Support, Not Stating Amount of Support, or Absolving Member of Support Responsibility. A legal separation agreement, court decree, judgment, or order that is silent on dependent support, does not state the amount of dependent support, or absolves the member of dependent support responsibility does not of itself affect a member's BAH entitlement. This is true regardless of the jurisdiction in which the decree, agreement or order was issued or in which the dependent is domiciled. The member is entitled to BAH on behalf of a dependent if the member contributes to the support of the dependent in an amount that is not less than the difference between the member's applicable "with-" and "without-" dependent BAH-II rates.

D. Legal Separation Agreement or Court Order Stating Amount of Support. If there is a court order or legal separation agreement stating the amount of support, a member must contribute to the support of the dependent the amount specified therein, but in no case may the support payments be less than the difference between the applicable BAH-II at the "with" and "without" dependent rate.

1. When a member is divorced from a nonmember, and they share joint legal custody of a child, and the ex-spouse is awarded primary physical custody and is not living in government quarters, then the member is considered a noncustodial parent for the purpose of entitlement to BAH. If the member's court-ordered support is less than the difference between the applicable BAH-II at the "with-" and "without-dependent" rate, then the member is entitled to the BAH at the rate for members without dependents only if not residing in government quarters. However, members who pay additional support to the ex-spouse having primary custody of the child and not assigned to government quarters, is entitled to BAH on behalf of a dependent solely on the basis of payment of child support, is entitled to BAH at the without-dependent rate and BAH-DIFF.

2. When a member has temporary custody of a child and they reside in private quarters, then the cost of maintaining a residence is not a factor in determining entitlement to with dependent rate of BAH and may not be used instead of or in addition to child support to qualify for increased allowances. The dependent child must reside with the member on a nontemporary basis (e.g., for a continuous period of more than 90 consecutive days) to qualify for the with dependent rate BAH for the temporary period. The cost of maintaining a home may not be added to the child support amount to qualify for the increased allowances.

E. Adequate Support. If the support requirements are not established by court order or legal separation agreement, a member must provide support in an amount that is not less than the difference between the “with” and “without” dependent BAH-II rates applicable to the member’s grade. The amount of support required to retain or receive BAH on behalf of a dependent does not necessarily mean that such amount is adequate to meet the policy of the Service concerned as to what constitutes adequate support in the absence of a legal separation agreement or court order.

F. Increase in Support Required by Increase in BAH-II Rates. Effective April 20, 1999, whenever there is an increase in BAH-II rates, the minimum required support under subparagraphs C, D, and E, increases to the difference between the new “with” and “without” dependent BAH-II rates. Members receiving BAH on behalf of a dependent under these circumstances must increase the amount of support, when applicable, within 60 days of the increase in order to continue receiving the increased entitlement.

G. Voluntary Support Payments. Voluntary support payments will not be considered for purposes of determining BAH entitlement unless there is a mutual agreement between the member parents that the support payments will be accepted by the custodial member parent.

H. Settlement Agreement

1. Property settlements made under a court order or written agreement are not considered support for BAH purposes.

2. Payments made under a settlement in place of support are considered support for the period expressly provided in the written agreement or court order.

3. A lump-sum settlement in place of support made under written agreement or court order is considered support for the period the lump sum would reasonably cover support of the dependent.

I. Interlocutory Decree of Divorce. If an interlocutory decree of divorce does not provide for support to the spouse, the member is not entitled to BAH for the spouse after the date of the decree unless proof of support is furnished.

J. Doubtful Cases. Submit any doubtful cases involving support for determination to the offices listed in subparagraph 260403.F.

260407. Support of Dependent - Both Parents Are Members

A. Divorce or Legal Separation Effective or Amended Before July 1, 1992. In addition to the provisions of paragraph 260406, the following subparagraphs apply when divorced or legally separated parents are both members and the divorce or separation occurred prior to July 1, 1992. These rules apply only when neither member is assigned to family type government quarters, unless otherwise specified.

1. The noncustodial parent is entitled to BAH on behalf of the child(ren), provided the noncustodial parent pays adequate child support.

2. If the noncustodial member does not pay the required amount of child support, the custodial member is entitled to BAH on behalf of the children.

3. The custodial member is entitled to BAH on behalf of the child(ren) if the noncustodial member declines to claim the child(ren). Such declination should be in writing if possible, may be revoked at anytime, and may not be retroactive. If the noncustodial member is entitled to BAH on behalf of another dependent, the custodial member is entitled to BAH on behalf of the child(ren) of the marriage.

4. Only one parent is entitled to BAH on behalf of children of the marriage when all of the children reside in one household; this applies even if child support payments are specifically for support of only some of the children.

5. When the child(ren) of the marriage are in the custody of a third party, only one member is entitled to BAH on behalf of the children, even if both members are paying sufficient child support to qualify for the entitlement. The senior member is entitled to BAH on behalf of the child(ren) when the two members do not agree on which person will claim the entitlement. If the members are of equal rank, date of rank determines which one receives BAH on behalf of the child(ren).

6. When each member has legal and physical custody of one or more of the children of the marriage, each member is entitled to BAH on behalf of those child(ren). If one member is paying adequate child support on behalf of the child(ren) in the other member's custody, the custodial member is not entitled to BAH on behalf of the child(ren) in that member's custody.

7. In cases of joint legal custody, when physical custody changes from one parent to another, each parent is entitled to BAH on behalf of the child(ren) during those periods the child(ren) are actually in that parent's physical custody.

8. When a noncustodial member pays child support to the custodial parent who also has another dependent who makes the member eligible for BAH, there is a presumption that the custodial parent's entitlement is based on the dependent(s) other than the child(ren) of the marriage. The BAH entitlement for the custodial and noncustodial parents is determined individually.

B. Divorce or Legal Separation Effective or Amended After June 30, 1992. In addition to the provisions of paragraph 260406, the following subparagraphs apply when the divorced or separated parents are both members and the divorce or separation occurred, or the decree or agreement was amended after June 30, 1992. These rules apply only when neither member is assigned to family-type government quarters, unless otherwise specified.

1. Unless the members agree to the contrary, the custodial parent is entitled to BAH-I on behalf of the child(ren) regardless of the amount of child support received by that member. In addition to the court order, a separate notarized agreement between the members must be provided in order for the noncustodial member to receive BAH on behalf of the child(ren).

2. When the members each have legal and physical custody of one or more of the children of the marriage, they are each entitled to BAH on behalf of the children in their individual custody, regardless of child support payments from one member to the other.

3. When the child(ren) are in the custody of a third party, the rule in subparagraph 260407.A.5 applies.

4. In cases when there is joint legal custody, with physical custody changing from one parent to the other, the rule in subparagraph 260407.A.7 applies.

5. When the dependents are not a common class, the rule in subparagraph 260407.A.8 applies.

260408. Child Living With Former Spouse Remarried to Another Service Member

A. When a member's child resides in government quarters not assigned to the divorced member parent, that member is not entitled to BAH on behalf of the child.

B. BAH may not be paid on behalf of a child to both the stepparent and the natural parent at the same time. The natural parent has priority to BAH on behalf of that child if providing adequate support.

260409. Child Living With Former Spouse - Member Remarries

A. Subparagraph 260301.A.2 does not apply in the case of a member who is required to support a child in the custody of a former spouse when the member remarries and is assigned to or occupies government family quarters. The member is not entitled to BAH on behalf of the child living with the former spouse. This rule also applies when, upon remarriage, the member marries a member.

B. If a member is required to support a child in the custody of a former spouse and the noncustodial parent marries another member and children are born of this marriage, and the member paying child support vacates government quarters on PCS assignment with quarters being reassigned to the new spouse, the member reassigned PCS is entitled to BAH on behalf of the child(ren) of the former marriage.

260410. Child(ren) Living With Former Spouse or Estranged Spouse Who Is Member Assigned Family Quarters. When the member parent having custody of the child(ren) is assigned to, or occupies, adequate family-type quarters with the child(ren) while receiving child support, the member parent paying child support is not entitled to BAH on behalf of the child(ren).

260411. Child Living With Former or Estranged Spouse in Family Quarters Visits Member. When a child(ren) who normally resides in government family quarters with a member's former or estranged spouse (custodial parent) visits the member in private quarters for more than 90 days, the visit is considered nontemporary and the member is entitled to BAH on behalf of the child(ren) from the first day of the visit. If the visit is 90 days or less, BAH on behalf of the child(ren) is not payable for any part of the visit.

260412. Adopted, Illegitimate, and Stepchildren. Adopted children, illegitimate children, and stepchild(ren) are primary dependents. In fact dependency is no longer required for these dependents.

A. Proof of Parentage. A member who claims BAH on behalf of an adopted child, stepchild, or a child born out of wedlock (parents are not married to each other at the time of the child's birth) must provide proof of parentage as follows:

1. For an adopted child, document showing the member is the child's legal parent.

2. For a stepchild, a marriage license showing the member is married to the child's legal parent and documentation showing that the member's spouse is the parent of the child.

3. For a child born out of wedlock, a birth certificate with the member name cited is required. If the member's name is not stated on the birth certificate, or a court order, obtain a signed statement of parentage from the member. If the illegitimate child(ren) is (are) not in the custody of the member parent, the case is treated in accordance with the rules for BAH-DIFF. The same rules apply when applicable to a member - mother not having custody.

B. Support Requirements. The member parent may claim a dependent child(ren) adopted children, illegitimate children, and stepchild(ren) for BAH purposes. Proof of support for dependents is generally not required. The provisions of subparagraph 260406.A will be applied. The member is entitled to BAH if the member contributes to the support of the dependent(s) and that support is not less than the BAH-DIFF. This includes members entitled to BAH-DIFF and members assigned to single type quarters when the child(ren) is in the physical custody of another person.

260413. In Fact Dependency Determinations for Secondary Dependents. An incapacitated child over age 21, a ward of the court, or an unmarried child over age 21 and under age 23 fulltime in college, requires an in fact dependency in accordance with the regulations of the Service concerned. The child must be dependent upon the member for over one-half of the child's support. This means:

A. The child's income, not counting the member's contributions, must be less than one-half of the child's living expenses.

B. The member's contribution must be more than one-half of the child's monthly living expenses.

260414. Dependent Child Adopted by a Third Party. A member is not entitled to BAH for a child after the child is adopted by a third party and final order or decree of adoption has been entered. Entitlement to BAH continues after an interlocutory decree has been entered if the decree does not change the legal relationship between the child and the member, and the member supports the child.

260415. Confinement in Penal or Correctional Institution

A. BAH Payable. Confinement of a member's spouse or unmarried minor child in a penal or correctional institution does not affect member's right to BAH on the dependent's behalf, unless:

1. The member refuses to support the dependent.
2. The member has been absolved from supporting the dependent.
3. The period of confinement may extend beyond 5 years.
4. The case is otherwise doubtful.

B. Doubtful Cases. Submit cases involving a sentence extending beyond 5 years, and doubtful cases to the addresses shown in subparagraph 260403.F.3. Do not pay BAH pending decision.

260416. Limitation on the Amount of BAH Payable to a Member Entitled to BAH Solely on the Basis of the Member's Payment of Child Support

A. Except as provided in subparagraph B, if a member is assigned to single-type quarters of the United States or a housing facility under the jurisdiction of a Uniformed Service and is authorized BAH solely by reason of the member's payment of adequate child support, the member is entitled to BAH-DIFF.

B. A member who was assigned to single-type government quarters and entitled to BAQ at the with dependent rate solely on the basis of the member's payment of child support of December 4, 1991, is entitled to BAH-II at the with-dependent rate until such time as the member becomes entitled to receive BAH on behalf of a dependent for a reason other than, or in addition to, the member's payment of child support. If a member moves out of single-type government quarters on or after January 1, 1998, the member is no longer entitled to BAH-II under the preceding sentence. BAH entitlement in such cases will be determined under the normal rules.

C. A member not assigned to government quarters, who is entitled to BAH on behalf of a dependent solely on the basis of payment of child support, is entitled to BAH at the without-dependent rate and BAH-DIFF.

260417. Dependent Parent

A. Basis of Determination. Dependency of a parent is determined on the basis of an affidavit submitted by the parent, and any other evidence required under applicable regulations. Determination of dependency is made by applicable authority listed in subparagraph 260403.F.3. A legal guardian may complete the form for a mentally incompetent parent.

B. Dependency Requirement. A member is entitled to BAH-I on behalf of parents if the parents are dependent upon the member for over one-half of their support. This means:

1. The parents' income, not counting the member's contribution, must be less than one-half of their monthly living expenses.

2. The member's contribution must be more than one-half of the parent's monthly living expenses.

C. Change in Status of Dependent. A member is entitled to BAH for any active duty period during which dependency of the parent is shown to exist, whether the dependency arose before or after the member entered service. If dependency arises because of changed circumstances, and the facts show the member has started to contribute over one-half of the parents' support, BAH is authorized from the date the contribution began.

D. Stepparent. A stepparent-stepchild relationship ends upon divorce from the blood parent, but not necessarily upon death of the blood parent. BAH on behalf of a stepparent may be established after death of the blood parent.

260418. Factors Used in Dependency Determinations for Parents

A. Family Unit Rule. In determining dependency of a parent, the total income and expenses of the family unit of which the parent is a member must be considered. Normally, the member's contribution to the expenses of the unit must exceed one-half of the unit's total expenses before any one person in the unit can be considered dependent on him or her. For example, a mother cannot be considered dependent if she is a member of a family unit in which her husband is supporting himself but is not providing sufficiently for the mother's individual needs.

B. Equity and Good Conscience. When application of the family unit rule results in manifest injustice, any other available evidence of dependency is considered, and determination made according to principles of equity and good conscience.

C. Charity. Effective April 20, 1999, contributions made to parents by charitable organizations are considered income of the parent.

D. Charitable Institution. Residence of a parent in a charitable institution, public or private, is not a bar to entitlement if the member claims BAH on behalf of the parent and other conditions of entitlement are met.

E. Social Security, Unemployment Compensation and Pensions. Effective April 20, 1999, payments made to the parent from the Social Security Administration, unemployment compensation, and financial assistance from governmental agencies, are considered income. Pensions received by the parent are also considered income.

F. Capital Assets. Unliquidated capital assets are not considered income, and parents are not required to deplete their capital assets in order to establish dependency on a member for BAH purposes. However, proceeds derived from the liquidation of capital assets are considered income. Amounts placed in reserve for depreciation of property held for income normally are considered available for current living expenses of a parent, are therefore, income.

G. Rate of Return Rule. In determining dependency of parents who possess uninvested capital, compute the income return on the basis of 5.25 percent per annum.

2605 PAYMENT OF BAH, MEMBERS IN A NONPAY STATUS260501. Entitlements

A. Unauthorized Absence. For a period not to exceed 2 months from the first day of absence, BAH at the rate being credited a member in grades E-1, E-2, E-3, and E-4 (4 years' or less service) at the time absence commenced may be paid to a dependent on whose behalf BAH was claimed prior to commencement of the absence, if all of the following conditions exist:

1. The member has been in an unauthorized absence status for more than 29 consecutive days.

2. The dependent applies for payment of BAH and the application is received by appropriate authority within 3 months after the date absence commenced.

3. If the Service concerned fails to provide timely notice to dependents of their right to apply for BAH, a waiver of the 3-month stipulation in subparagraph 260501.A.2, above, may be granted on a case-by-case basis by the authority specified in subparagraph 260501.B.1, below. If such a waiver is granted, payment may only be made on those applications received within 2 months after the dependents are properly notified of their right to submit such applications.

4. No positive information has been received that the dependent is residing with or has joined the member at the place of absence.

5. If a member is assigned government family-type quarters (adequate or inadequate), no payment of BAH may be made. Payment of BAH may not be made directly to the member on behalf of a dependent. Payment shall be made only to the dependents.

B. Pretrial Confinement in a Foreign Country. For a member in pretrial confinement in a foreign county, payment of BAH is authorized as follows:

1. Enlisted members in pay grades E-1, E-2, E-3, and E-4 (4 years' or less service). Payment is authorized for a period not to exceed 2 months under the conditions stated in subparagraph A above. For any subsequent months there must be showing of hardship on the dependent and approval on a case-by-case basis.

a. Army: Director
DFAS-IN/FJA
8899 East 56th Street
Indianapolis IN 46249-2301

- b. Navy:
Commander Naval Military Personnel Command
(NMPC-64)
Washington DC 20370
- c. Air Force:
HQ USAF/DPRC
Washington DC 20330-5000
- d. Marine Corps:
Commandant of the Marine Corps
(Code MPH-20)
Washington DC 20380

2. Enlisted members in grades E-4 (over 4 years' service) and above (cases where there has been a showing of hardship on the dependent). The approval authority for the initial and any subsequent payments is as shown in 1, above. No payment may be made without the approval of such authority on a case-by-case basis. Payments are subject to the conditions stated in subparagraph 260501.B.1.a., above. See Service regulations for procedures on processing claims.

C. Excess Leave. Basic Allowance for Housing may continue to be paid to a member in grade E-4 (4 years' or less service) or below, with dependents, for a period not to exceed 2 months during which an excess-leave status exists unless it is anticipated that member will not return to duty, for example, appellate leave. The 2-month period shall be computed from the first day of excess leave.

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR BAH ENTITLEMENT FOR ARMY AND AIR FORCE MEMBERS														
R U L E	A	B	C	D	E	F	G	H	I	J				
	If dependent claimed is	and marriage is	and is under 21 years	and is	and certified court adoption papers are	and child has income from source other than member	and is incapable of self support	then						
								determination is made by		send a claim to DFAS-IN for determination, opinion, or submission to Comp Gen of U.S. for decision				
								Army disbursing officer or designee	Air Force AFO or designee					
1	spouse	lawful						X (note 7)	X					
2		of questionable legality (note 1)							X (note 8)	X				
3	child unmarried		yes	legitimate, or legitimated by marriage of blood parents				X (notes 3 and 7)	X (note 3)					
4				adopted (note 2)				available (note 3)	no			X (notes 3 and 8)	X (note 6)	
5								not available (note 4)	yes					
6														
7				stepchild (notes 3 and 7)					no	X (notes 3 and 8)	X (note 3)			
8									yes		X (notes 3 and 8)	X (note 5)		
9				yes				illegitimate child of member or legitimated by affidavit or court order					X (note 8)	X
10								no						

Table 26-1. Who Determines Relationship or Dependency for BAH Entitlement for Army and Air Force Members

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR BAH ENTITLEMENT FOR ARMY AND AIR FORCE MEMBERS										
R U L E	A	B	C	D	E	F	G	H	I	J
	If dependent claimed is	and marriage is	and is under 21 years	and is	and certified court adoption papers are	and child has income from source other than member	and is incapable of self support	then		
								determination is made by		send a claim to DFAS-IN for determination, opinion, or submission to Comp Gen of U.S. for decision
								Army disbursing officer or designee	Air Force AFO or designee	
11	child, married	terminated by divorce, annulment, or death of spouse	yes						X (note 8)	X
12	parent (including "in loco parentis") (note 2)									

NOTES:

1. Includes common law spouse; those married by proxy or telephone or within a prohibited period following divorce, or a divorce granted by a foreign country; and purported marriages.
2. Must be in fact dependent on service member for substantial portion of his or her support.
3. Applies also if child is in custody of someone other than service member (divorced spouse, parent, etc.).
4. If this is interlocutory decree of adoption, case must be submitted to DFAS-IN or DFAS-DE for determination.
5. In case of an Army member, the claim will be sent to DFAS-IN only when determination cannot be made by disbursing officer under AR 37-104-3 chapter 2, part 3 or is not covered by note 8.
6. This includes an illegitimate child of the spouse, when the member is not the blood parent. See subparagraph 260412.F.
7. In the case of Army Reserve Component (RC) personnel, initial determinations for dependents listed in rules 1, 3, 4 and 7 can be made by the RC unit commander or servicing Military Personnel Officer.
8. Claim will be sent to DFAS-DE only when determination cannot be made by AFO or designee as prescribed in AFM 177-373, Volume IV.

Table 26-1. Who Determines Relationship or Dependency for BAH Entitlement for Army and Air Force Members (Continued)

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR NAVY OR MARINE CORPS MEMBERS											
R U L E	A	B	C				D	E	F		
	If dependent claim is	and	and member is a				and	and	then determination is made by		
			Navy officer	Marine Corps officer	Navy enlisted member	Marine Corps enlisted member			DFAS Cleveland	Commandant of the Marine Corps	claim must be submitted through channels for determination or sub-mission to the Comptroller General of the U.S. for decision
1	any person who can qualify as a dependent				X						
2	a spouse	marriage is legal un-questionable	X								X
3				X		X	neither member has been previously married	marriage has been contracted with the various states or territories by legal civil or religious ceremony		X (note 1)	
4		marriage is of doubtful legality (see para 260403)				X				X	
5			X	X							X
6	unmarried legitimate child	child is under 21 years of age	X								X (note 2)
7				X						X (note 2)	
8							dependent child is of present or former spouse (note 3)			X (note 4)	
9	a combination of any of the dependents in rules 2 through 8					X				X (note 4)	

Table 26-2. Who Determines Relationship or Dependency for Navy or Marine Corps Members

WHO DETERMINES RELATIONSHIP OR DEPENDENCY FOR NAVY OR MARINE CORPS MEMBERS													
R U L E	A	B	C				D	E	F				
	If dependent claim is	and	and member is a				and	and	then determination is made by				
			Navy officer	Marine Corps officer	Navy enlisted member	Marine Corps enlisted member			DFAS Cleveland	Commandant of the Marine Corps	Commanding Officer of a battalion squadron, or separate detached command	Disbursing Officer	claim must be submit- ted through channels for deter- mination or sub-mission to the Compt-roller General of the U.S. for decision
10	an un-married child	child is over 21 years of age	X	X									X
11						X				X			
12	an un-married stepchild or adopted child	child's dependency relationship is not doubtful	X		X				X				
13				X							X		
14						X					X		
15			X		X				X				
16				X		X				X			
17			X		X				X				
18	an un-married illegitimate child					X				X			
19											X		
20			X		X				X				
21	a parent (including "in loco parentis")			X		X				X			

NOTES:

1. This same rule applies when either member or spouse has been previously married, if the previous marriage was dissolved by death, final decree or divorce, or by annulment (not prohibiting remarriage).
2. Submit doubtful cases through channels to the Comptroller General of the United States.
3. The birth date of the child must be after the date of the marriage concerned.
4. Submit questionable cases to the Commandant of the Marine Corps.

**Table 26-2. Who Determines Relationship or Dependency for Navy or Marine Corps Members
(Continued)**

BAH ENTITLEMENTS, MEMBERS WITHOUT DEPENDENTS, ENTITLED TO BASIC PAY			
R U L E	A	B	C
	If member is	then BAH accrues	BAH does not accrue
1	assigned to a permanent station	if government quarters or housing facilities are not assigned (notes 3 and 11)	if member is assigned or occupies Government quarters suitable and adequate for the member's grade (notes 9 and 10).
2		while on short period of special alert duty during which the member is furnished sleeping accommodations at the permanent station where government quarters are not available for assignment.	
3		while on short training periods not to exceed 45 days during which, due to military necessity, the member is furnished sleeping accommodations at the permanent station where government quarters are not available for assignment.	
4	assigned to an off-ship crew of a nuclear powered submarine, temporarily serving ashore for more than 15 consecutive days for training and rehabilitation	if government quarters are not available at the training or rehabilitation site	if adequate government quarters are available for occupancy at the training or rehabilitation site.
5	in pay grade E-4 (less than 4 years' service), or lower and is ordered to report for TDY in connection with the fitting out or conversion of a vessel and permanent duty aboard when the vessel is placed in commission	if per diem allowance is not authorized for the period of TDY (note 1)	if quarters are available or member is entitled to per diem allowance for the period of such duty.
6	on field duty, PCS not involved (note 15)	if receiving BAH at permanent station	if assigned or occupying government quarters at permanent station.
7	assigned PCS to a unit on field duty	if the commander certifies member was required to procure quarters at own expense at the initial field duty site	for the initial field duty in progress at time of PCS, unless member is required to procure quarters at own expense at field duty site.
8	on sea duty (note 2)	if member is grade E-6 or above while aboard ship in homeport or overhaul and elects on or after July 1, 1996 not to occupy available quarters (notes 13 and 14)	if member is grade E-5 or below.
9	on authorized leave, accrued, advanced, or in connection with release from active duty or discharge (PCS not involved)	if receiving BAH at permanent station or assigned quarters are terminated incident to separation (notes 3 and 11)	if assigned quarters at permanent station.
10	on excess leave		for any period of time.
11	sick in hospital, or on sick leave from a hospital (PCS not involved)	if receiving BAH at permanent station, (notes 3 and 11)	if assigned quarters at permanent station.
12	being treated at hospital TDY en route PCS; or assigned PCS direct to hospital for treatment	if not assigned quarters.	if assigned quarters in the hospital.

Table 26-3. BAH Entitlements, Members Without Dependents, Entitled to Basic Pay

BAH ENTITLEMENTS, MEMBERS WITHOUT DEPENDENTS, ENTITLED TO BASIC PAY			
R U L E	A	B	C
	If member is	then BAH accrues	BAH does not accrue
13	on TDY (PCS not involved), or TAD, including such duty on transport or under permissive orders (notes 6, 12, and 15)	if receiving BAH at permanent station.	if assigned quarters at permanent station.
14	in pay grade E-4 (4 or more years' service), or higher, in travel status on PCS, including travel under permissive orders, TDY en route, leave en route and proceed time; or is assigned PCS and is on authorized leave or duty at the old or new station (note 6)	if member is not assigned government quarters, or for the first 30 days member temporarily occupies government quarters at any one location (notes 4, 7, 11, and 16)	if member is assigned government quarters, or for any period in excess of 30 days member temporarily occupies government quarters at any one location.
15	in pay grade E-4 (less than 4 years' service), or lower, and is in a travel status on PCS, including leave en route and proceed time (note 8)		on and after the day of departure from old station.
16	in pay grade E-4 (less than 4 years' service), or lower, assigned PCS and is on authorized leave or duty at the old or new station	for not more than 30 days that member temporarily occupies government quarters incident to the PCS at either old or new station (notes 11 and 16) for period of occupancy	of government quarters not incident to a PCS.
17	in pay grade E-4 (less than 4 years' service), or below, initially assigned to a station for basic training, and after completion of such training performs temporary duty at that location pending the receipt of orders designating a permanent duty station to which member will report	between the date of completion of basic training the date member departs the basic training station to comply with PCS orders, when government quarters are not available for assignment.	
18	in pay grade E-4 (4 or more years' service), or higher, assigned to active duty and is performing temporary duty at other than basic training station pending receipt of orders designating a permanent duty station to which member will report upon completion of temporary duty	when government quarters are not available for assignment.	
19	in pay grade E-4 (less than 4 years' service), or lower, assigned to active duty and is performing temporary duty at other than basic training station pending receipt of orders designating permanent duty station to which member will report upon completion of temporary duty	between the date of commencement of temporary duty and the date of receipt of orders naming a permanent duty station when government quarters are not available for assignment.	
20	in pay grade E-4 (4 or more years' service), or higher, ordered home or to a place other than a military organization awaiting further orders in connection with Physical Evaluation Board proceedings	on and after day of departure from hospital or old station through day of discharge, or day prior to effective date of retirement.	

Table 26-3. BAH Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

BAH ENTITLEMENTS, MEMBERS WITHOUT DEPENDENTS, ENTITLED TO BASIC PAY			
R U L E	A	B	C
	If member is	then BAH accrues	BAH does not accrue
21	in pay grade E-4 (less than 4 years' service), or lower, ordered home or to a place other than a military organization awaiting further orders in connection with Physical Evaluation Board proceedings	on and after day of arrival at the designated place, through day of discharge, or day prior to effective date of retirement (note 5)	while in travel status from hospital to the designated place or during delay en route chargeable as leave.
22	training for, attending or participating in Pan Am or Olympic games, or other international amateur sports competition	if not furnished quarters by the government or by an agency sponsoring the member's participation	if furnished quarters by the government, or by an agency sponsoring participation.
23	a medical officer on active duty in an intern or resident physician status at a state, county, municipal, or private hospital	if not furnished quarters without charge by the hospital	if furnished quarters without charge by the hospital. Such quarters are considered furnished on behalf of the United States.
24	a student training on a fellowship, scholarship or grant	if not furnished quarters by the college, university, or research facility	if furnished quarters by the college, university, or research facility. Such quarters are considered furnished on behalf of the United States.
25	a Nurse Corps officer or Nurse Corps candidate attending a course of instruction or affiliating with a state, county, municipal, or private hospital	if member is not furnished quarters without charge	if furnished quarters without charge by the hospital. Such quarters are considered furnished on behalf of the United States.
26	in confinement in a guardhouse or brig pursuant to a court-martial	if acquitted, the charges are withdrawn or the sentence is set aside or disapproved and member is otherwise entitled to BAH	while confined pursuant to a court-martial (includes awaiting trial and serving sentence) and the sentence is approved, or, if acquitted, etc., when the member was not receiving BAH on the day before the day of confinement and government quarters assignment was not terminated before or during confinement. Quarters termination must be certified by the commander under Military Service procedures.
27	a Reserve Component member in pay grade E-4 (4 or more years' service), or above, ordered to active duty for training (See subparagraph 570502.D for active duty other than for training)	at permanent duty station and for authorized travel time from home to first duty station and from last duty station to home (note 7)	for any period government quarters are occupied (notes 9 and 10).
28	a Reserve Component member in pay grade E-4 (less than 4 years' service), or lower, ordered to active duty for training (See subparagraph 570502.D, for active duty other than for training)	if the member was not assigned government quarters at the permanent duty station (note 7).	

Table 26-3. BAH Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

BAH ENTITLEMENTS, MEMBERS WITHOUT DEPENDENTS, ENTITLED TO BASIC PAY			
R U L E	A	B	C
	If member is	then BAH accrues	BAH does not accrue
28	a Reserve Component member in pay grade E-4 (less than 4 years' service), or lower, ordered to active duty for training (See subparagraph 570502.D, for active duty other than for training)	if the member was not assigned government quarters at the permanent duty station (note 7).	
29	a Reservist in any pay grade called or ordered to active duty on or after Aug 2, 1990, in connection with Operation Desert Shield/Storm; a Reserve Component member in any grade called or ordered to active duty on or after Dec 5, 1991 in support of a contingency operation (other than for a member who is authorized transportation of household goods as part of the call or order)	if the member is unable to continue to occupy a primary residence which is maintained by the member and which is owned by the member, or for which the member is responsible for rental payments	if the member is assigned or occupies government quarters suitable and adequate for the member's grade and does not maintain and own a primary residence or is not responsible for rental payments on the member's primary residence (notes 9 and 10).

NOTES:

1. BAH accrues from the date of reporting through the day before the date the ship is placed in full commission, reduced commission, or in service not in commission, whichever occurs first.
2. For the purpose of payment of BAH under rule 8, duty for a period of less than 3 months is not considered to be sea duty. Duty for more than 3 months under temporary orders (TDY/TAD) which provide for return to the member's same permanent station is not considered sea duty. Ship-based staffs are not considered to be on sea duty for BAH purposes when the entire staff is ordered ashore by written orders and the duty ashore is not considered to be service in a self-propelled vessel that is in an active status, in commission or in service and is equipped with berthing and messing facilities.
3. When not assigned to government quarters at the permanent station, BAH accrues for up to 30 consecutive days at one location where government quarters are temporarily occupied while in a duty or authorized leave status not incident to PCS. BAH for a 30-day period is not forfeited if occupancy exceeds 30 days.
4. Entitlement to BAH for 30 days in government quarters applies only when occupancy of government quarters is of a temporary nature incident to the PCS as certified by the commander of the station involved. (For rule 16 the period of entitlement must be after receipt of PCS orders and before departure from old station and/or after arrival at new station.)
5. Entitlement begins on actual or constructive date of arrival home or other designated place, whichever date is earlier. (Compute constructive time arrival date via commercial transportation mode based upon the rules and provisions of the JFTR, Volume 1.)
6. Also applies to members entitled to pay and allowances while attending school under Operation Bootstrap.
7. BAH and per diem may be credited for the same periods, if otherwise qualified.
8. This rule is not applicable when a member is performing temporary duty under PCS orders at a station which is ultimately the member's permanent duty station upon completion of the temporary duty; in such instances, see rule 1 of this table.
9. Government quarters in fact occupied without payment of rental charges shall be deemed to have been assigned as appropriate and adequate quarters.
10. Does not apply to temporary occupancy of government quarters assigned to another member for 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAH entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.

Table 26-3. BAH Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

11. The intent of these entitlements is that BAH continue for a maximum of 30 days at any one location. Movement from one unit of government quarters to another, or in and out of the same unit, at the same location, with or without a break in occupancy, does not break the consecutiveness and does not create new periods or extend the authorized 30 days without loss of BAH. Occupancy of government quarters at different locations creates a new 30-day period at each location. However, if government quarters at one location are considered to be occupied by a member at the same time the member occupies government quarters at a second location, a new 30-day period does not begin at the second location.
12. A member away from permanent station may occupy quarters of the United States designated for members without dependents at the member's temporary duty station without affecting the member's right to receive payment of basic allowances for quarters or assignment of quarters, if any, at the member's permanent station. Under such circumstances, a member may not occupy quarters of the United States which exceed the minimum standards for members of that grade without dependents, as prescribed by the Secretary concerned, unless the only quarters available (a) exceed the minimum standards, and (b) are made available for joint occupancy with other members.
13. Members in grade E-6 or above, who are assigned to an off-ship crew of a nuclear powered submarine, are entitled to BAH under rule 8 upon reassignment as the on-ship crew provided entitlement accrued during training and rehabilitation.
14. A member is also entitled to receive BAH after reporting to a deployed vessel, if the homeport of that ship is the same as the previous assignment and the member was receiving BAH at the homeport. Members TAD to the ship are also entitled to BAH after reporting to the deployed vessel if in receipt of BAH at the permanent duty station before being detached on TAD. Members in grade E-5, without dependents, assigned to sea duty may be authorized BAH if appropriate considering the availability of quarters for E-5s. A member married to another member below pay grade E-6 may be authorized one BAH Allowance. (See subparagraph 260201.C).
15. For members below pay grade E-7, entitlement does not exist during TDY or TAD if quarters are assigned or furnished at the permanent station, even though the quarters are vacated at the beginning of the TDY or TAD.
16. Installation commanders may, for reasons of military necessity or relief of hardship, authorize non-TDY members affected by PCS orders to temporarily occupy government quarters beyond 30 days without loss of BAH.

Table 26-3. BAH Entitlements, Members Without Dependents, Entitled to Basic Pay (Continued)

BAH ENTITLEMENT AT PERMANENT STATIONS FOR SPOUSES IN UNIFORMED SERVICE- FAMILY-TYPE QUARTERS NOT ASSIGNED (Notes 1-7 and Note 16)									
R U L E	A	B	C	D		E		F	
	When member A has dependents other than spouse	and member B has dependents other than spouse	and members acquire a child(ren) (note 8)	and single type government quarters is assigned to (note 9)		then member A is entitled to BAH as a member		and member B is entitled to BAH as a member	
				member A	member B	with dependent	without dependent (notes 11 & 13)	with dependent	without dependent (notes 11 & 13)
1	no	no	no				X		X
2	no	no	no	X	X				
3	no	no	no	X					X
4	no	no	no		X		X		
5	no	no	yes			X (note 10)			X
6	no	no	yes	X	X	X (note 10)			
7	no	no	yes	X		X (note 10)			X
8	no	no	yes		X	X (note 10)			
9	yes	no	no			X (note 12)			X
10	yes	no	no	X	X	X (note 12)			
11	yes	no	no	X		X (note 12)			X
12	yes	no	no		X	X (note 12)			
13	yes	no	yes			X			X
14	yes	no	yes	X	X	X			
15	yes	no	yes	X		X			X
16	yes	no	yes		X	X			
17	yes	yes	no			X (note 14)			X
18	yes	yes	no	X	X	X		X	
19	yes	yes	no	X		X		X	
20	yes	yes	no		X	X		X	
21	yes	yes	yes			X (note 14)			X
22	yes	yes	yes	X	X	X		X	
23	yes	yes	yes	X		X		X	
24	yes	yes	yes		X	X		X	

NOTES:

1. When family-type quarters are jointly occupied by the members, neither member is entitled to BAH, even though the dependents do not reside in the quarters, unless dependents are prevented by military orders from occupying quarters.
2. When husband-wife members are stationed at the same or adjacent military installations, both members are normally authorized BAH at the appropriate rate when family-type quarters are not assigned, notwithstanding the availability of adequate single quarters for either or both members.

Table 26-4. BAH Entitlement at Permanent Stations for Spouses In Uniformed Service - Family Type Quarters Not Assigned

3. Members may be considered to be stationed at the same or adjacent bases or shore installations when they are not precluded by distance from living together, or they actually commute on a regular basis, regardless of distance.
4. When husband-wife members have no other dependents and are precluded by distance from living together, they will normally be treated as members without dependents for purposes of entitlement to BAH (see Table 26-3).
5. When husband-wife members, who are both entitled to BAH at the same or adjacent military installation, are separated geographically by competent orders and one member remains assigned to the old duty station, that member normally will be authorized continuance of BAH notwithstanding the availability of adequate single quarters for assignment to either member.
6. BAH at the rate payable to members without dependents is authorized during travel status after departure from the old permanent station, or during a period of leave, delay en route, or proceed time between permanent duty stations, provided the members are in pay grade E-4 (4 years' or more service), and above, are not in receipt of BAH for other dependents, and are not assigned to government quarters en route or temporarily occupy government quarters for more than 30 days at any one location.
7. When not assigned to government quarters at the permanent station, BAH accrues for up to 30 consecutive days at one location where government quarters are temporarily occupied while in a duty or authorized leave status not incident to PCS. BAH for a 30-day period is not forfeited if occupancy exceeds 30 days.
8. Refer to paragraph 260402.
9. If either column in column D is blank, that member is not assigned to single-type government quarters.
10. For purposes of this table, the members have agreed that member A is to receive BAH at the with-dependent rate (subparagraph 260402.A).
11. See Table 26-3 for BAH entitlement when a member is on field or sea duty.
12. When the dependents in column A, rules 9 through 12, are children from a prior marriage or illegitimate children residing with member A, the members may elect for member B to receive BAH for stepchildren, in accordance with subparagraph 260412.B, and member A to receive without-dependent rate BAH when not occupying single quarters.
13. When one member enters a non-pay status, the other member may claim the member not entitled to pay and allowances as a dependent and be authorized to draw BAH at the with-dependent rate for the duration of the non-pay status if otherwise entitled (for exception, see paragraph 260415).
14. Members must elect which one is to receive the with-dependent rate BAH. If they cannot agree as to the election, the entitlement will rest with the senior member. Elections cannot be retroactive.
15. When one or both of the dependents in columns A and B are dependent parents of the members, both members may receive with-dependent rate BAH, if otherwise entitled. Also, when married members no longer share a common residence due to competent military orders, their entitlement to increased allowances or to government-furnished quarters should be determined separately, without regard to the general rule that all dependents of members are members of the same class for the purpose of determining allowance entitlements. Refer to paragraphs 260406 and 260407 for BAH entitlement of divorced or legally separated members.
16. Members may temporarily occupy government quarters assigned to another member for 90 days or less at any one duty station without loss of BAH. Occupancy for more than 90 days is considered to be of a permanent nature and BAH entitlement does not accrue for any portion of the period of occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.

Table 26-4. BAH Entitlement at Permanent Stations for Spouses In Uniformed Service - Family Type Quarters Not Assigned (Continued)

BAH ENTITLEMENT, MEMBERS WITH DEPENDENTS ENTITLED TO BASIC PAY					
R U L E	A	B	C	D	E
	If member is	and is entitled to BAH at the permanent station	and the member and dependents temporarily occupy government quarters (note 1)	and if the member is an	then BAH entitlement
1	in a duty or authorized leave status not incident to PCS (includes accrued, advanced, or convalescent leave) (note 6)	yes	no		continues.
2			yes		continues, but not more than 30 consecutive days at one location where government quarters are temporarily occupied. BAH for the 30-day period is not forfeited even if occupancy exceeds 30 days (notes 2 and 3).
3		no			does not exist. However, if quarters assignment at the permanent station is terminated while on duty at the beginning of or during leave, rules 1 and 2 apply on and after date of termination.
4	on excess leave	yes		officer or enlisted member in pay grade E-4 (over 4 years' service), or higher	does not exist except as provided in subpara-graph 260501.C for members in pay grade E-4 (4 years' or less), and below (note 4).
5	in a duty, travel or leave status incident to PCS (includes TDY en route) (notes 6 and 8)		no		exists unless permanent government quarters are assigned or occupied.
6			yes (note 5)		exists, but not more than 30 days at any location where government quarters are temporarily occupied. Entitlement does not exist if permanent government quarters are also assigned or occupied (notes 2, 3, and 7).
7	on TDY or TAD, not incident to PCS (notes 6 and 8)	yes	no		yes no continues as long as the permanent station remains unchanged, except as restricted by subparagraph 260301.C.
8			yes		continues, but not more than 30 consecutive days at one location where government quarters are temporarily occupied. BAH for the 30-day period is not forfeited even if occupancy exceeds 30 days (notes 2 and 3).
9		no			does not exist.
10	AWOL, not excused as unavoidable			officer or enlisted member	

Table 26-5. BAH Entitlement, Members With Dependents Entitled to Basic Pay

BAH ENTITLEMENT, MEMBERS WITH DEPENDENTS ENTITLED TO BASIC PAY					
R U L E	A	B	C	D	E
	If member is	and is entitled to BAH at the permanent station	and the member and dependents temporarily occupy government quarters (note 1)	and if the member is an	then BAH entitlement
11	absent due to	yes			continues.
12	disease (as distinguished from injury) from alcohol or drugs, causing loss of pay	no			does not exist. However, if quarters assignment at the permanent station is terminated during an absence, BAH accrues on and after date of termination.
13	home on PCS awaiting further orders in connection with physical evaluation board proceedings		no		continues until member's retirement or discharge.
14			yes		does not exist.

NOTES:

- Does not apply to temporary occupancy of government quarters assigned to another member by a member and dependents, or dependents alone for a period of 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAH entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.
- BAH credit continues if member has additional dependents who are precluded by competent authority from occupying government quarters or facilities furnished member and spouse, or spouse alone.
- The intent of these entitlements (rules 2, 6, and 8) is that BAH continue for a maximum of 30 days at any one location. Movement from one unit of government quarters to another, or in and out of the same unit, at the same location, with or without a break in occupancy, does not break the consecutiveness and does not create new periods or extend the authorized 30 days without loss of BAH. Occupancy of government quarters at different locations creates a new 30-day period at each location. However, if government quarters at one location are considered to be occupied by a member at the same time the member occupies government quarters at a second location, a new 30 day period does not begin at the second location.
- BAH does not accrue during excess leave if member is not to continue in service after leave expires. Example: A member released from the disciplinary barracks on commandant's parole, and placed in excess leave status until sentence is ordered to be executed.
- Applies whether temporary occupancy of government quarters is at old station, while en route, or at new station. However, occupancy is limited to guest houses or other transient facilities. Family housing is excluded from such use.
- The phrase, "incident to PCS," refers to whether or not the member is en route to a new permanent station under PCS orders.
- Installation commanders may, for reasons of military necessity or relief from hardship, authorize non-TDY members affected by PCS orders to temporarily occupy government quarters beyond 30 days without loss of BAH.
- Includes such status under permissive orders.

Table 26-5. BAH Entitlement, Members With Dependents Entitled to Basic Pay (Continued)

DATE TO START BAH-MEMBERS WITH DEPENDENTS		
R U L E	A	B
	If member	then BAH begins on
1	enlists, or is called to EAD	date of enlistment or entry on active duty, if member is not assigned government quarters for member and dependents on that date.
2	is appointed to commissioned or warrant officer status	date active duty pay begins, if member is not assigned government quarters for member and dependents on that date.
3	occupies government quarters with dependents and quarters assignment is terminated or member and dependents physically depart permanent station pursuant to PCS orders	date of termination of quarters assignment or date of PCS departure, unless dependents continue to occupy the quarters. If definite assignment of quarters was not required, then BAH begins the date quarters are vacated.
4	occupies government quarters with dependents and the quarters are declared inadequate	date on which designation of inadequacy of quarters is effective, if member and dependents continue to occupy such quarters.
5	acquires a dependent (marriage, birth, adoption, etc.) (note 1)	date dependent is acquired, if member is not assigned government quarters for member and dependent(s) on that date (note 2).
6	acquires a dependent while in an unauthorized absence status	date member is returned to a pay status after apprehension or surrender, if member is not assigned government quarters for member and dependents on that date (note 3).
7	claims dependent parent	date determined or approved by authority shown in Table 26-1 or 26-2.
8	claims doubtful dependent	

NOTES:

1. Includes dependent acquired while member is on authorized leave.
2.
 - a. Applies to sole dependent of officer or enlisted member.
 - b. Applies to any dependent on whose behalf a member is entitled to increased BAH.
 - c. BAH starts with date of member's marriage even though the marriage occurs on same day as divorce from another member.
 - d. When blood parents of an illegitimate child marry, the child becomes a legitimate dependent for BAH purposes.
 - e. In the case of Navy members, BAH will not be started more than 6 months before submission of the application without prior approval by the authority shown in Table 26-2.
3. If there has been any change in the status of dependents on whose behalf BAH existed on the date an unauthorized absence commenced, a member must reestablish the right to BAH.

Table 26-6. Date To Start BAH-Members With Dependents

DATE TO STOP BAH-CHANGES IN DEPENDENCY STATUS		
R U L E	A	B
	If the sole dependent	then stop BAH at 2400 hours of the day
1	dies	of death.
2	is divorced (note 1)	of the final decree of divorce (note 1).
3	is a spouse in a voidable (not void) marriage which is dissolved by final annulment decree	before date of the decree. (No payment of BAH may be made on or after date of the decree, regardless of credits accrued and not paid; BAH paid before the date of decree may be retained (note 2).
4	is a spouse in an invalid (void) marriage	before discovery of invalidity of the marriage. (No payment of BAH may be made on or after date of discovery, regardless of credits accrued and not paid. Retention of BAH paid before that time depends on validation under Chapter 50, section 5005).
5	becomes of age (except a child who is incapable of self-support because of mental or physical incapacity)	before the child's 21st birthday.
6	marries (regardless of age, or mental or physical incapacity)	of the child's marriage. (Applies even though child's marriage is to a Service member who is also entitled to BAH on child's behalf for that date).
7	is adopted by a third party by interlocutory order or decree which has effected a changed legal relationship	before date of adoption (note 3).
8	is adopted by a third party and a final order or decree has been entered	before date of adoption.
9	enters military service	before day of entry into service.
10	is one who must be "in fact" dependent on member, and such dependency ceases	before date dependency ceases.

NOTES:

1. Applies also when an affinitive relationship between a member and stepchild ceases because of divorce from the child's parent.
2. Applies also when affinitive relationship between a member and stepchild ceases because of annulment of marriage.
3. Case involving Army or Air Force member must be sent to DFAS-IN or DFAS-DE respectively, for determination as to whether order of decree effected a changed legal relationship. Cases involving Navy must be sent to DFAS-CL and Marines will send cases to Commandant of the Marine Corps, respectively.

Table 26-7. Date To Stop BAH-Changes In Dependency Status

DATE TO STOP BAH-OTHER THAN CHANGES IN DEPENDENCY STATUS		
R U L E	A	B
	If member	then stop BAH at 2400 hours of the day
1	is furnished government quarters at the permanent station, adequate for the member and dependents	before the day quarters are assigned (or before day occupancy begins, if definite assignment not made) (note 1).
2	is furnished quarters (cash or in kind) on behalf of the United States, adequate for the member and dependents	before day quarters are furnished.
3	and dependents occupy inadequate quarters which are rehabilitated and designated as adequate quarters	before effective date of redesignation as adequate quarters.
4	and dependents occupy government quarters at the permanent station during family's visit, not incident to PCS (note 2)	before commencing the eighth consecutive day of occupancy (note 3).
5	and dependents temporarily occupy government quarters while on leave (not incident to PCS), or while in a travel status incident to PCS, including delay en route chargeable as leave	see Table 26-5.
6	is absent without leave	
7	is discharged or released from active duty	of discharge or release.
8	is retired	before effective date of retirement.
9	dies	of death.

NOTES:

1. When dependents are prevented from occupying the assigned quarters because of orders of competent authority, BAH continues until transportation is arranged for household goods and is available for the dependents (if prompt application is made), plus the normal travel time for dependents to the member's station.
2. Does not apply to temporary occupancy of government quarters assigned to another member by a member and dependents, or dependents alone, for a period of 90 days or less at any one duty station. Occupancy for more than 90 days is considered to be of a permanent nature and BAH entitlement does not accrue for any portion of the period of such occupancy. Movement from one unit of quarters to another or in and out of the same unit, with or without a break, does not establish a new 90-day period.
3. BAH credit continues if the member has additional dependents who are precluded by competent orders from residing with the member.

Table 26-8. Date To Stop BAH-Other Than Changes In Dependency Status

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITH DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
1	is assigned to a duty location within CONUS	dependents reside with or separately from the member	the members permanent duty station (PDS) unless member has a Secretarial waiver (see note 1).
2	is assigned to an unaccompanied tour at a PDS outside CONUS	dependents retain their permanent residence in the United States	the area within the United States where the dependents reside beginning on the date the member reports to the new PDS (note 2).
3		dependents relocate their permanent residence in the United States	the area within the United States where the dependents reside beginning when one or more dependents arrive at the location of the new residence, or when the member reports to the new PDS in connection with the transfer, whenever is later (BAH rate based on old PDS continues through the day before the day the rate applicable for the location of the new permanent residence begins) (note 2).
4		dependents relocate their residence while the member is serving an unaccompanied tour	the area within the United States where the dependents reside for the location of the old permanent residence through the day before the day one permanent residence. Entitlement to BAH at the rate applicable to the location of the new permanent residence will begin on the day one or more dependents arrive at that location. (note 2)
5	is assigned to an unaccompanied tour at a PDS outside CONUS (does not include Hawaii or Alaska) and the member is required to perform a TDY inside or outside CONUS, incident to a transfer to another unaccompanied tour	dependents reside inside the United States	the location of the permanent residence of the dependents (note 2).
6	is assigned to an unaccompanied tour at a PDS outside CONUS (does not include Hawaii or Alaska) and the member is required to perform a TDY incident to a transfer in the United States		the location of the permanent residence of the dependents through the day before the day the member reports to the new PDS. Entitlement to BAH at the rate for the new PDS will begin on the day the member reports at that duty station (note 2).
7	is assigned to an unaccompanied tour at a PDS outside CONUS (does not include Hawaii or Alaska)	dependents establish a residence in the United States incident to the member's transfer from a accompanied tour at a PDS outside the United States to an unaccompanied tour	the location where the dependents establish a permanent residence beginning when one or more dependents arrive at the location of the new residence provided all dependents have departed the overseas location (note 2).

Table 26-9. Location Member's BAH Rate is Based Upon – Members With Dependents

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITH DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
8	is assigned in Alaska	dependents reside in, or during which all dependents return to, one of the other states or the District of Columbia to establish a permanent residence	the location of the permanent residence of the dependents, provided the member is entitled to FSH for during the assignment or following departure of dependents (in such case, the member is entitled to an FSH equal to BAH at the without dependent rate for the PDS, if government quarters are not assigned to the member, and BAH at the with dependent rate for the location of the dependents' permanent residence). If the member is not entitled to FSH, and not assigned to government quarters the member is entitled to only BAH at the with dependent rate for the PDS.
9		dependents visit for more than 30 continuous days (unless visit is extended because of illness, emergency, or member is entitled to a BAH on behalf of the remaining dependents who are not visiting the member)	
10		dependents reside in, or return to a designated place as authorized in the JFTR, para U5222 D1, to establish a permanent residence other than in the United States	
11	is assigned in Hawaii	dependents reside in, or during which all dependents return to, one of the other states or the District of Columbia to establish a permanent residence	the location of the permanent residence of the dependents, provided the member is entitled to FSH during the assignment or following departure of dependents (in such case, the member is entitled to an FSH equal to BAH at the without dependents rate for the PDS, if government quarters are not assigned to the member, and BAH at the with dependent rate for the location of the dependents' permanent residence). If the member is not entitled to FSH, and not assigned to government quarters the member is entitled to only BAH at the with dependent rate for the PDS.
12		dependents visit for more than 30 continuous days (unless visit is extended because of illness, emergency, or member is entitled to a BAH on behalf of the remaining dependents who are not visiting the dependents who are not visiting the member).	
13		dependents reside in, or return to a designated place as authorized in the JFTR, para U5222 D1, to establish a permanent residence other than in the United States	

**Table 26-9. Location Member's BAH Rate is Based Upon – Members With Dependents
(Continued)**

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITH DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
14	is assigned to a ship or afloat unit		the homeport of ship or other afloat unit to which a member is assigned (note 1).
15	is in leave status away from PDS awaiting final discharge	incident to a PCS in the United States	old PDS.
16	is processing for separation or retirement		old PDS unless the last PDS was outside the United States, in which case location for the processing station will be used.
17	is participating in the Educational Leave Program Relating to Continuing Public and Community Services		the designated unit of assignment during scheduled school breaks or periods of leave (only when member is entitled to BAH).
18	was not paid BAH at the old PDS because government quarters were assigned		the old PDS beginning the day the member becomes entitled to BAH and the new PDS the day the member reports to the new PDS (provided the member is entitled to BAH at the new PDS).
19	was assigned to a duty location outside the United States		the new PDS on the date the member reports to the new PDS or the date the member reports at the TDY location if member reports there first; or the date the member reports to the TDY location if a new PDS is not named in the orders (provided the member is entitled to BAH at the new PDS).
20	was assigned in Alaska or Hawaii		the old PDS until the day before the day the member reports to the new PDS (provided the member is entitled to BAH at the new PDS).
21	was assigned in the United States	incident to a PCS in the United States, with a TDY en route to a location to which the member commutes from the permanent quarters that will be occupied at the new PDS	the new PDS on the day per diem has been stopped under the circumstances in the JFTR U5120-D.
22	in receipt of appropriate orders associated with a prolonged hospitalization determination	member was transferred from a PDS outside or inside the United States to a hospital in the United States for observation or treatment	the location of the hospital to which the member has been transferred.
23	dies in the line of duty while assigned to a PDS in the United States		the deceased member's PDS regardless of where dependents choose to reside (unless dependent's are in receipt of a Secretarial Waiver).

**Table 26-9. Location Member's BAH Rate is Based Upon – Members With Dependents
(Continued)**

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITH DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
24	dies in the line of duty while assigned to a PDS outside the United States		location where the dependents reside or choose to reside in the United States (if dependents stay overseas their housing allowance will be based on the OHA rate for the location the dependents reside and then revert to BAH at the location where the dependents later decide to reside in the United States, on the date one or more dependents arrive at the location where they choose to reside or the date all dependents have departed the PDS location, whichever is later) (entitlement exists for 180 days after member's death).
25	dies	dependents reside in government quarters	dependents location the day the housing facilities were vacated and continue for 180 days less the number of days the housing facilities were occupied following the date of the member's death.
26	is assigned to a duty location within CONUS	dependents are evacuated	the member's PDS (while member's PDS remains unchanged), if early return of the dependents to the vicinity of the member's PDS is anticipated; the member continue to maintain family type quarters at personal expense during the absence of the dependents; and the period for which such payment is made does not exceed 6 months (note 5).
27	member is assigned to a duty location at a PDS outside CONUS	command sponsored dependents are residing at a designated place in the 50 United States or the District of Columbia incident to an evacuation	location the dependents name as their designated place beginning on the day after the day on which per diem at the designated place terminates.
28	is assigned in Alaska or Hawaii and resides in government quarters	dependents reside separately from the member outside Alaska or Hawaii in one of the other states or the District of Columbia	the location of the dependents (note 1).
29	is newly inducted, enlisted, reenlisted, or an officer candidate		location of the dependents.

NOTES:

1. A member assigned to a PDS in the United States is entitled to BAH at the rate applicable to the location where their dependents maintain a permanent residence if the Service Secretary, or a designated representative, determines it is necessary for dependents to reside in a military housing area other than the one in which the PSD is located when member is:
 - (1) assigned to a PDS in an area where sufficient quantities of housing do not exist;
 - (2) assigned to unusually arduous sea duty and the dependents reside at or relocate to a designated place in the United States;
 - (3) assigned or is in receipt of PCS orders to a ship entering overhaul involving a homeport change and dependents are not relocated incident to the homeport change;
 - (4) in receipt of PCS orders to a unit with a promulgated change of homeport and dependents relocate to the announced homeport before the effective date of the homeport (or designated place in the United States if appropriate) before the effective date of the homeport change;

**Table 26-9. Location Member's BAH Rate is Based Upon – Members With Dependents
(Continued)**

- (5) disadvantaged as a result of reassignment for reasons of improving mission capability and readiness of the unit, receipt of PCS orders between duty stations located in the same proximity, and disallowed movement of household goods (see JFTR U5355). (The Secretary concerned or the Secretary's designated representative must issue a determination that a decision to implement this policy is in the interest of correcting an inequity incurred due to movement of the individual for purposes of improving mission capability and unit readiness), or
- (6) assigned to indeterminate temporary duty, or temporary duty pending further orders. In addition to these cases, the Secretary or designated representative may issue a determination if circumstances or conditions at the new PDS require the dependents to reside at a separate location. This determination is made only in cases where the necessity to reside separately is caused by conditions at the duty station. This does not cover a personal election of either a member or dependents as the reason for residing separately.
2. Applicable when dependents reside in, or during which all dependents return to, the United States to establish a permanent residence. None of these conditions are applicable when the dependents' residence and the member's new PDS are both in Alaska and Hawaii and the member is not entitled to FSH.
 3. A member assigned to a PDS outside CONUS and authorized BAH on behalf of dependents residing separately from the member in the United States, is entitled to that allowance through the day before the day one or more command or noncommand sponsored dependents arrive at the member's overseas location to establish a residence. This does not apply when dependents establish a residence in the vicinity of the member's PDS outside CONUS if the primary residence of the remaining dependents is in the United States and the member is entitled to BAH on behalf of those dependents.
 4. In instances of multiple dependent location, the member will designate the primary residence of dependents. Rate for BAH will be based on this primary residence.
 5. Commanding officers will review each case on its own merits; they will encourage members to terminate their family-type quarters when it becomes apparent that dependents will not return.

**Table 26-9. Location Member's BAH Rate is Based Upon – Members With Dependents
(Continued)**

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITHOUT DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
1	is assigned to a duty location within CONUS		members permanent duty station (PDS) unless member has a Secretarial waiver (see note 1).
2	is assigned to a ship or afloat unit		the homeport of the ship or other afloat unit to which a member is assigned.
3	is in leave status away from PDS awaiting final discharge	incident to a PCS in the United States	old PDS.
4	is processing for separation or retirement		old PDS unless the last PDS was outside the United States, in which case location for the processing station will be used.
5	is participating in the Educational Leave Program Relating to Continuing Public and Community Services		the designated unit of assignment during scheduled school breaks or period of leave (only when member is entitled to BAH).
6	was not paid BAH at the old PDS because government quarters were assigned		the old PDS beginning the day the member becomes entitled to BAH and the new PDS the day the member signs into the new PDS (provided the member is entitled to BAH at the new PDS).
7	was assigned to a duty location outside the United States		the new PDS on the date the member reports to the new PDS or the date the member reports at the TDY location if member reports there first; or the date the member reports to the TDY location if a new PDS is not named in the orders (provided member is entitled to BAH at the new PDS).
8	was assigned in Alaska or Hawaii		the old PDS until the day before the day the member reports to the new PDS (provided member is entitled to BAH at the new PDS).
9	was assigned in the United States		the new PDS on the day per diem has been stopped under the circumstances in the JFTR U5120 D (provided member is entitled to BAH at the new PDS).

Table 26-10. Location Member's BAH Rate Is Based Upon – Member Without Dependents

LOCATION MEMBER'S BAH RATE IS BASED UPON – MEMBERS WITHOUT DEPENDENTS			
R U L E	A	B	C
	If member	and	then the payable BAH rate (for members entitled to (BAH) is that which is prescribed for (notes 3 and 4)
10	in receipt of appropriate orders associated with a prolonged hospitalization determination	member was transferred from a PDS outside or inside the United States to a hospital in the United States for observation or treatment	the location of the hospital to which the member has been transferred (provided the member is entitled to BAH).
11	was entitled to BAH at the PDS on the date an evacuation is ordered or authorized	continues to maintain commercial bachelor quarters	on the PDS as long as the member may temporarily be required to occupy government quarters for all or any portion of the period involved.
12	who is in pay grade E-4 (four or more years of service), or above	is in a travel or leave status between permanent duty station, including time granted as delay en route or proceed time and not assigned to government quarters	rate at last PDS.

NOTES:

1. A member assigned to a PDS in the United States is entitled to BAH at the rate applicable to the member's residence if the service Secretary, or a designated representative, determines that the PDS in which the member is located is:
disadvantaged as a result of reassignment for reasons of improving mission capability and readiness of the unit, in receipt of PCS orders between duty stations located in the same proximity, and disallowed movement of household goods (see JFTR U5355). (The Secretary concerned or the Secretary's designated representative must issue a determination that a decision to implement this policy is in the interest of correcting an inequity incurred duty to movement of the individual for purposes of improving mission capability and unite readiness).
In addition to these cases, the Secretary or designated representative may issue a determination of circumstances or conditions at the new or conditions at the new PDS required the member to reside at different location. This determination is made only in cases where the necessity to reside separately is caused by conditions at the duty station. This does not cover a personal election of a member as the reason for residing separately.
2. This is generally for the remainder of the unexpired lease on the privately-owned quarters, provided the member is required to honor the remainder of the lease.

**Table 26-10. Location Member's BAH Rate Is Based Upon – Member Without Dependents
(Continued)**

DATE TO START BAH-MEMBERS WITH DEPENDENTS		
R U L E	A	B
	Member is	then the payable BAH rate (for members entitled to BAH) is that which is prescribed for:
1	called (or ordered) to active duty for 140 days or more at one location	the location from which they are called (or ordered) to active duty beginning on the day the member is entitled to BAH (notes 1 and 2).
2	called or ordered to active duty (other than for training) and a DoD retired member ordered to active duty under 10 U.S.C. Sec 688(a) for 140 days or more at one location away from the principal place of residence at the time called or ordered to active duty), but not authorized transportation of household goods	the principal place of residence beginning on the day the member is entitled to BAH (note 1).
3	called (or ordered) to active duty in support of a contingency operation (note 3)	the location of the members principal place of residence at the time called or ordered to active duty.
4	injured or physically disabled while on active duty/inactive duty training, authorized incapacitation pay (including BAH) under DoDD 1241.1 (note 4)	the member's principal place of residence beginning on the date the member becomes entitled to incapacitation pay. (note 5).

NOTES:

- Entitlement for BAH for reserve members covered under 66 Comp Gen 453 (1987).
- The initial rate will terminate on the day before the day the member reports at the duty location prescribed in the active duty orders. Entitlement to BAH at the rate prescribed for the PDS location begins on the day the member reports to that location.
- A contingency operation is a military operation:
 - designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or
 - that result in the call or order to, or retention on, active duty of members of the Uniformed Services under 10 U.S.C., Ch 15, Sec 672(a), 673, 673b, 673c, 688, 3500, or 8500, or any other provision of law during a war or during a national emergency declared by the President or Congress.
- The condition must be a result of an injury, illness, or disease incurred or aggravated:
 - in line of duty while performing active duty;
 - in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or
- Entitlement for a BAH rate for an eligible reservist may not be paid for a period of more than 6 months except when, in the interest of fairness and equity, the Secretary concerned or the Secretary's designated representative extends incapacitation pay (see 37 U.S.C., Sec 204(g) and (h) and DoDD 1241.1 for entitlement offsets).

Table 26-11. Location Member's BAH Rate is Based Upon – Members of Reserve Components

MONTHLY RATES OF BAH-II, BAH-DIFF AND PARTIAL BAH - EFFECTIVE JANUARY 1, 2001				
Pay Grade	BAH-II (Without Dependent)	BAH-II (With Dependent)	BAH Differential	Partial BAH
O-10	936.60	1152.60	223.50	50.70
O-9	936.60	1152.60	223.50	50.70
O-8	936.60	1152.60	223.50	50.70
O-7	936.60	1152.60	223.50	50.70
O-6	859.20	1037.70	184.80	39.60
O-5	827.40	1000.50	178.80	33.00
O-4	766.50	881.70	118.80	26.70
O-3	614.70	729.30	118.50	22.20
O-2	487.50	622.80	140.10	17.70
O-1	410.70	557.10	151.50	13.20
O-3E	663.60	783.90	124.50	22.20
O-2E	564.00	707.40	148.80	17.70
O-1E	485.40	653.70	174.30	13.20
W-5	779.10	851.10	74.40	25.20
W-4	691.80	780.30	91.50	25.20
W-3	581.70	715.20	138.00	20.70
W-2	516.00	657.60	145.80	15.90
W-1	432.60	568.80	141.00	13.80
E-9	568.20	748.80	186.60	18.60
E-8	521.70	690.60	174.60	15.30
E-7	445.50	641.10	202.20	12.00
E-6	403.20	592.50	195.30	9.90
E-5	372.00	532.80	166.20	8.70
E-4	323.40	462.90	144.00	8.10
E-3	317.40	431.10	117.60	7.80
E-2	257.70	410.70	158.10	7.20
E-1	230.10	410.70	186.60	6.90

★Table 26-12. Monthly Rates of BAH-II, BAH-DIFF and Partial BAH – Effective January 1, 2001

Chapter 26—Basic Allowance for Quarters (BAQ)

2601—General Provisions

260101.B and 260102	Public Law 93-64, July 9, 1973
260105	section 403, EO 11157, June 1964, as amended
260105.B	21 Comp Gen 1065 27 Comp Gen 479
260105.C	MS Comp Gen B-7255, December 13, 1939
260106	40 Comp Gen 335
260107.C	MS Comp Gen B-213560, April 3, 1984
260108	Public Law 99-227, December 28, 1985

2602—Members Without Dependents

260201.C	37 U.S.C 403(b) Public Law 104-201, section 604, September 23, 1996 37 U.S.C., section 403(c), as amended
260202	10 U.S.C. 7572
260202.D	10 U.S.C. 7572(b) as amended by Public Law 102-190, section 607, December 5, 1991
260202.E	10 U.S.C. 7572(d) as added by Public Law 102-190, section 607, December 5, 1991
260203	Public Law 102-190, section 632, December 5, 1991
260204	52 Comp Gen 23
260205	37 U.S.C. 1009(c) EO 11939, September 30, 1976 57 Comp Gen 194

260205.B.2	56 Comp Gen 894 Public Law 104-106, section 603, February 10, 1996 37 U.S.C. section 403(b), as amended
260205.B.14	62 Comp Gen 37

2603—Members With Dependents

260301.A.2	37 U.S.C. 403(d) 48 Comp Gen 216 section 404, EO 11157, June 1964, as amended
260301.A.3	48 Comp Gen 216
260301.C and D	Part IV, EO 11157, June 22, 1964
260302.B.1	MS Comp Gen B-96991, March 19, 1951
260302.B.2	39 Comp Gen 575
260302.B.3	40 Comp Gen 215
260302.C.1	21 Comp Gen 1065 27 Comp Gen 479
260302.C.2	29 Comp Gen 67 30 Comp Gen 246 32 Comp Gen 454
260302.D.1	MS Comp Gen A-68837, January 6, 1942
260302.D.2	23 Comp Gen 856
260302.D.4	46 Comp Gen 869
260302.D.5	OASD Memo, September 1, 1967 37 Comp Gen 517
260302.D.6	EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
260302.E	EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
260302.F.1	37 U.S.C. 403(e) Public Law 83-765, section 408, September 1, 1954

	25 Comp Gen 5
	39 Comp Gen 401
260302.F.3	MS Comp Gen A-8139, June 27, 1925
260302.G	47 Comp Gen 355
260302.H	DoD(GC) Memo, December 8, 1997
260303.A	10 U.S.C. 2830
	18 Comp Gen 299
260303.B	39 Comp Gen 401
260303.C	10 U.S.C. 2830
260303.G	OASD(MRA&L) Memo, September 27, 1982
260303.H	OASD(MRA&L)(MPP) Memos, April 7, 1978 and January 29, 1979
260304.A.1	37 U.S.C. 421
260304.A.2	37 U.S.C. 421
	47 Comp Gen 467
260304.A.4	43 Comp Gen 249
260304.C	54 Comp Gen 92
	55 Comp Gen 287
260304.D	37 U.S.C. 403(a)(2), as added by section 604(a), Public Law 102-190, December 5, 1991 DFAS-HQ(F) Memo, April 22, 1993

2604—Rules for Determining Relationship and Dependency

260402.A	DoD Instruction 1338.1, April 18, 1974
260402.B	MS Comp Gen B-180328, October 21, 1974 MS Comp Gen B-249916, March 30, 1993
260402.C	51 Comp Gen 413
260403.B	32 Comp Gen 144
260403.E	36 Comp Gen 121
260403.F	37 U.S.C. 423
	37 Comp Gen 451
260404	26 Comp Gen 645
260406.A	<u>Robey vs U.S.</u> (71 Ct Cl 561) <u>Rawlin vs U.S.</u>

	(93 Ct Cl 231)
260406.B	42 Comp Gen 642, 644 52 Comp Gen 454, 456 64 Comp Gen 333, 335
260406.C	23 Comp Gen 625 OASD(MRA&L)(MPP) Memo, April 7, 1978
260406.D	OASD(MRA&L)(MPP) Memo, April 7, 1978
260406.D.1 and 2	MS Comp Gen B-240236, September 12, 1991
260406.F and G	64 Comp Gen 609
260406.H and I	MS Comp Gen B-138091, January 26, 1959 26 Comp Gen 514 33 Comp Gen 308 34 Comp Gen 16
260407.A	ASD(FM&P) Memo, May 19, 1992
260407.A.1	OASD(MRA&L)(MPP) Memo, December 11, 1974 ASD(FM&P) Memo, May 19, 1992 ASD(FM&P) Memo, February 28, 1992 ASD(FM&P) Memo, June 22, 1992 60 Comp Gen 399
260407.A.2	Public Law 102-190, section 602, December 5, 1991
260407.A.3	60 Comp Gen 399 52 Comp Gen 602
260407.A.4	62 Comp Gen 666
260407A.5	64 Comp Gen 121
260407.A.6	62 Comp Gen 315 62 Comp Gen 350
260407.A.7	37 U.S.C. 403
260407.A.8	52 Comp Gen 602
260407.B	ASD(FM&P) Memo, May 19, 1992
260407.B.1	ASD(FM&P) Memo, May 19, 1992

	ASD(FM&P) Memo, February 28, 1992
	ASD(FM&P) Memo, June 22, 1992
260407.B.3	64 Comp Gen 121
260407.B.5	52 Comp Gen 602
260409.A	48 Comp Gen 28
	MS Comp Gen B-200946, December 15, 1980
260409.B	59 Comp Gen 681
260409.C	60 Comp Gen 399
260410	58 Comp Gen 100
260411	64 Comp Gen 224
260412	Public Law 93-64, July 9, 1973
	OASD Memo, Aug 30, 1973
260412.B	Public Law 102-190, section 602, December 5, 1991
260412.F	MS Comp Gen B-177061 B-177129, December 13, 1974
260415	MPAC CA 146, MPAC CA 146A Public Law 97-81, November 20, 1981
	36 Comp Gen 199
	47 Comp Gen 467
	MS Comp Gen B-209744, February 1, 1983
260416	Public Law 102-190, section 602, December 5, 1991
260417.D	30 Comp Gen 144
260418.E	33 Comp Gen 336
260418.F	34 Comp Gen 672
260418.G	MPAC CA 78, MPAC Items 70-80 and 83-85

2605—Payment of BAQ, Members in a Nonpay Status

260501	Public Law 93-64, July 9, 1973
260501.A.3	OASD(MRA&L)(MPP)

Memo, July 16, 1973
 OASD(MRA&L)(MPP)
 Memo, July 2, 1976

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Note 3

MS Comp Gen B-124149,
 December 23, 1955

Note 4

MS Comp Gen B-94657,
 February 9, 1951
 34 Comp Gen 193, 547, 625
 37 Comp Gen 451

Note 5

Table 26-3

Rule 1

37 U.S.C. 403

Rule 3

OASD(MRA&L)(MPP)
 Memo, April 12, 1978

Rule 4

44 Comp Gen 105
 47 Comp Gen 527

Rules 6 and 7

37 U.S.C. 403(c)(1)

Rule 8, note 14

Public Law 104-201,
 section 604,
 September 23, 1996
 37 U.S.C. section 403(c) as
 amended

Rule 14

37 U.S.C. 403(f)
 MS Comp Gen B-164351,
 August 2, 1968
 48 Comp Gen 41,
 section 403(a)(2)(A),
 EO 11157,
 June 22, 1964, as amended

Rule 16

45 Comp Gen 347

Rule 17

53 Comp Gen 740

Rule 20

37 U.S.C. 403(f)
 32 Comp Gen 348

Rule 21

32 Comp Gen 348

Rule 23

29 Comp Gen 67, 163
 30 Comp Gen 246
 32 Comp Gen 454

Rule 25

29 Comp Gen 67, 163
 30 Comp Gen 246
 32 Comp Gen 454

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40 Comp Gen 169, 715
 60 Comp Gen 74

Rule 27

48 Comp Gen 301, 490, 517
 EO 11157, June 22, 1964,

	as amended OASD(FM&P) Memo, October 31, 1990 OASD(FM&P) Memo, February 25, 1991
Rule 28	EO 11157, June 22, 1964, as amended
Rule 29	Public Law 102-25, section 310A, April 6, 1991 Public Law 102-190, section 632, December 5, 1991
Note 2	37 U.S.C. 403(c)(2) section 401(c), EO 11157, June 22, 1964, as amended
Note 3	section 403(a)(2)(B), EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
Note 6	51 Comp Gen 673
Note 7	48 Comp Gen 301, 490, 517 45 Comp Gen 143
Note 8	MS Comp Gen B-169507, May 27, 1970
Note 9	Part IV, EO 11157, June 22, 1964
Note 11	EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
Note 12	Section 405, EO 11157, June 22, 1964
Note 14	Public Law 104-201, section 604, September 23, 1996, 37 U.S.C. 403(c), as amended
Note 15	45 Comp Gen 143
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Note 8	MS Comp Gen B-108328, October 21, 1974
Note 13	Public Law 97-81, November 20, 1981
Notes 14 and 15	47 Comp Gen 467 MS Comp Gen B-217665, August 23, 1985 62 Comp Gen 666 59 Comp Gen 681 MS Comp Gen B-249916, March 30, 1993
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Rule 2	Section 403(a)(b), EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
Rule 6	section 403(a)(1)(A), EO 11157, June 22, 1964, as amended
Rule 8	section 403(a)(1)(B), EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
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Note 3	EO 11157, June 22, 1964, as amended by EO 12762, June 4, 1991
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Note 3

Public Law 102-190,
section 601,
December 5, 1991
Public Law 99-190,
December 19, 1985